

1 (Whereupon, end of in
2 camera proceedings.)

3 JUDGE BRODSKY: And be sure that the court
4 reporter gets three copies of each of those admitted
5 exhibits.

6 MR. KAMINSKI: Certainly.

7 JUDGE BRODSKY: Who's going to take the next
8 set of cross?

9 MS. SCARSELLA: Staff will proceed, your Honor.

10 JUDGE BRODSKY: Very well. Please proceed.

11 CROSS-EXAMINATION

12 BY

13 MS. SCARSELLA:

14 Q Good morning, Mr. O'Connor.

15 A Good morning.

16 Q My name is Carla Scarsella and I represent
17 staff. I just have a couple questions for you.

18 If I could direct you to Nicor Gas
19 Exhibit 34, your surrebuttal testimony, Pages 13 and
20 14; and in particular, Lines 306 through 313.

21 In that portion of your testimony,
22 isn't it correct that your response is Staff Witness

1 Struck's testimony regarding the Commission's order
2 in Docket 87-0262.

3 A Yes, that is correct.

4 Q Beginning on Line 309, you indicate that
5 Mr. Struck dismisses your cite to Docket 87-0262 as
6 not being relevant because the intervenor proposal
7 that staff opposed would have required all rate base
8 items to be presented on a 13-month average basis,
9 which Mr. Struck says he is not proposing?

10 A Can you ask the question?

11 Q Sure.

12 Isn't it correct that beginning on
13 Line 309 you indicate that Mr. Struck dismisses your
14 cite to Docket 87-0262 as not being relevant because
15 the intervenor proposal that staff opposed would have
16 required all rate base items to be presented on a
17 13-month average basis which Mr. Struck says he is
18 not proposing?

19 A That is correct.

20 Q Do you have a copy of Mr. Struck's rebuttal
21 testimony, Mr. O'Connor?

22 A No, I do not.

1 MS. SCARSELLA: May I approach, your Honor?

2 JUDGE BRODSKY: You may.

3 BY MS. SCARSELLA:

4 Q If you turn to Page 10 of Mr. Struck's
5 rebuttal testimony, Line 186, isn't it correct what
6 Mr. Struck actually states is I am not proposing a
7 13-month average be used for all rate base items for
8 every type of rate base presented regardless of
9 whether the company chooses a historical test year or
10 a future test year?

11 A That is correct.

12 Q So isn't it correct then that Mr. Struck
13 distinguished his proposal in this case from the
14 intervenor proposal in Docket No. 87-0262 not only
15 because the intervenor proposal would have required a
16 13-month average for the rate base items but also
17 because intervenor proposal would have done so
18 regardless of whether the company proposes a
19 historical test year or a future test year?

20 A I don't understand the question.

21 Q All right. I'll restate it.

22 A Thank you.

1 Q Isn't it correct then Mr. Struck
2 distinguished his proposal from the intervenor
3 proposal in Docket No. 87-0262 in two ways: The
4 first way being the intervenor proposal in that
5 docket would have required a 13-month average for the
6 rate base items; and the second way, the intervenor
7 proposal would have done so regardless of whether the
8 company proposes an historical test year or a future
9 test year?

10 A I agree on the first part.

11 I need to read this more carefully on
12 the second part, if you can bear with me.

13 Q Sure.

14 A Can you ask the second part of the question
15 one more time.

16 Q Sure can.

17 The second way Mr. Struck
18 distinguishes his proposal from the intervenor
19 proposal in Docket No. 87-0262, was that the
20 intervenor proposal would have done -- would have --
21 let me -- give me a moment. I'll rephrase it.

22 Mr. Struck distinguishes his proposal

1 in this docket from intervenor proposal in Docket
2 No. 87-0262 because the intervenor proposal would
3 have done so regardless of whether a company proposes
4 an historical test year or a future test year.

5 A I don't know the answer to that question.

6 MS. SCARSELLA: All right. Staff has nothing
7 further. Thank you.

8 JUDGE BRODSKY: Okay. And then ELPC.

9 CROSS-EXAMINATION

10 BY

11 MS. BUGEL:

12 Q Mr. O'Connor, with regard to the
13 uncollectible expenses that Nicor proposes to recover
14 through Rider 6 gas supply cost, are those supply
15 expenses or distribution expenses?

16 A They are gas expenses, so in that sense,
17 they are supply expenses.

18 Q And Nicor then is proposing that it is
19 appropriate to address these supply expenses in this
20 proceeding?

21 A Can I clarify the previous question. I'm
22 not quite sure of how to distinguish between supply

1 and distribution expenses, so let me say I don't know
2 the answer to the question.

3 Q Mr. O'Connor, could I please draw your
4 attention to Nicor 12-A, Page 28, Lines 620 through
5 626.

6 A Page 20?

7 Q Page 28. I apologize. Page 28.

8 A Lines?

9 Q Lines 620 through 626.

10 A Yes.

11 Q Is it correct that in this testimony you
12 state that the portion of uncollectible expenses
13 attributable to gas supply are a gas supply cost?

14 A They are a gas supply cost. That is
15 correct.

16 Q So is it appropriate then to address this
17 portion of uncollectible expenses that are
18 attributable to a gas supply cost in this proceeding?

19 A Could you ask the question again?

20 Q Is it appropriate to address this portion
21 of uncollectible expenses that are attributable to
22 gas supply in this proceeding?

1 MR. RIPPIE: I object to the question. As
2 phrased, it appears to me to quite likely call for a
3 legal conclusion as to the appropriate scope of the
4 proceeding.

5 If Ms. Bugel does not intend to do
6 that, I think she could easily rephrase the question
7 so that it wouldn't -- so I wouldn't have an
8 objection.

9 MS. BUGEL: Okay.

10 BY MS. BUGEL:

11 Q Is Nicor proposing in this proceeding to
12 recover these uncollectible expenses attributable to
13 a gas -- attributable to gas supply through Rider 6
14 gas supply cost?

15 A Nicor is proposing to recover through
16 Rider 6 the portion of uncollectibles associated with
17 cost of gas.

18 Q Thank you.

19 Mr. O'Connor, uncollectible expenses,
20 is that another way of saying the portion -- these
21 are bills that Nicor has submitted to its customers
22 that they have not paid?

1 A In a general sense, you are correct.

2 Q And recovering these expenses through
3 Rider 6 means that they will be covered by customers
4 who are paying their bills?

5 A Recovering the gas portion of those
6 uncollectibles through Rider 6 means that people who
7 normally pick up charges under Rider 6 will pick up
8 that portion, that is correct.

9 Q Who are people who normally pick up charges
10 under Rider 6?

11 A Sales customers.

12 Q And --

13 A In a general sense. There are minor
14 exceptions.

15 Q Okay. And those customers then would be
16 paying more when uncollectibles increase?

17 A More than what?

18 Q Okay. As uncollectibles increase, the
19 portion of uncollectibles being recovered through
20 Rider 6 would also increase?

21 A Can you restate that?

22 Q Those customers who are through -- from

1 which uncollectible expenses are being recovered
2 through Rider 6, as uncollectibles increase, the
3 charge being passed through to them increases?

4 A Yes. That would be a reasonable
5 assumption.

6 Q And then the converse would be true: As
7 uncollectibles decrease, the charge being passed
8 through to those customers would also decrease?

9 A Again, a reasonable assumption.

10 Q I would like to draw your attention to
11 Nicor 12-A, Page 29, Lines 657 to 664. Do you have
12 that in front of you?

13 A Yes, I do.

14 Q Is it accurate to say Nicor uncollectible
15 expenses are also burdensome for Nicor?

16 A That is a correct statement.

17 Q And is it then accurate to say that it is
18 beneficial to Nicor if uncollectible expenses
19 decrease?

20 A That is correct.

21 Q Let me direct you to your testimony 12-A
22 Page 25, Lines 570 to 572 where you talk about

1 uncollectible being largely a function of gas costs.

2 Do you have that in front of you?

3 A I have that portion of the testimony in
4 front of me, yes.

5 Q When gas supply costs increase,
6 uncollectible expenses also increase; is that
7 correct?

8 A That is correct.

9 Q So is it accurate to say that customer's
10 bills are increasing when gas supply costs increase?

11 A In a general sense, yes.

12 Q And when customers' bills increase, it is
13 more likely that there will be customers who do not
14 pay their bills?

15 A Again, in a general sense, yes.

16 Q And the converse then would also be true in
17 a general sense, when customers bills are decreasing,
18 nonpayment also decreases?

19 A That is correct.

20 Q Mr. O'Connor, if means are taken to reduce
21 customer's gas bills, would that also reduce
22 uncollectible expenses?

1 A I'm sorry, could you ask that question
2 again?

3 Q This is an extenuation of the last question
4 then.

5 If means are taken to reduce
6 customer's bills, means are taken to make gas bills
7 lower, would that reduce uncollectible expenses?

8 A Can you elaborate on means to reduce
9 customer's gas bills? I don't know what you mean.

10 Q Anything that happens to reduce customer's
11 gas bills so their gas bills are lower, whether it's
12 gas supply costs going down or some other means of
13 reducing bills, would that reduce uncollectible
14 expenses?

15 A A meaningful reduction in customer's gas
16 bills should reduce the overall uncollectibles.

17 MS. BUGEL: Thank you. I have no further
18 questions.

19 JUDGE BRODSKY: Redirect -- or, excuse me, do
20 you have questions?

21 Redirect?

22 MR. RIPPIE: Can I have two minutes? Is that

1 possible?

2 JUDGE BRODSKY: That's fine. We'll pause but
3 not take a break.

4 (Whereupon, a brief recess
5 was taken.)

6 JUDGE ARIDAS: Are you ready, Mr. Rippie?

7 MR. RIPPIE: I'm ready. Thank you very much.

8 REDIRECT EXAMINATION

9 BY

10 MR. RIPPIE:

11 Q Mr. O'Connor, do you recall being examined
12 by Mr. Kaminski of the Attorney General's Office with
13 respect to a document which he marked as Attorney
14 General's Cross Exhibit No. 2?

15 A Yes, I do recall.

16 Q I'm going to ask you one specific question
17 about one line of that exhibit only.

18 I would ask you to please refer to the
19 line on AG Cross Exhibit 2 cross referenced to
20 Schedule G-7. I believe it's the second line of that
21 document.

22 And to compare it once again to the

1 projected settlement of the 263-A claim shown on
2 Schedule G-7 and tell me whether the two numbers are
3 the same?

4 A I'm sorry, I lost the last part of that
5 question. Could you ask it again.

6 Q I'll break it up.

7 Second line of AG Cross Exhibit G-2.
8 Do you see that?

9 A Yes.

10 Q Can you tell me what the amount of that
11 line says?

12 A It says \$84,881,000.

13 Q And if you refer to Schedule G-7, Line 10,
14 what is the stated amount of the projected settlement
15 of the 263-A claim?

16 A The amount shown on Line 10 is \$84,834,000.

17 Q Are those two numbers the same?

18 A No, they are not.

19 Q As now just focusing on G-7, has the stated
20 84,834,000 number been updated by the company since
21 the original submission of the 263-A data?

22 A Yes, it has.

1 Q Has that update been provided to the
2 Attorney General's Office as well as all the other
3 parties in this case?

4 A Yes, it has.

5 Q What approximately is the amount of the
6 updated number?

7 A \$66.9 million.

8 Q Do you recall questioning from Mr. Kaminski
9 about updates to the gas in storage components of
10 rate base and various uncollectibles amounts?

11 A I do.

12 Q Do you recall testifying that in your view
13 those were not selective updates of Nicor Gas
14 forecasts?

15 A I do.

16 Q Could you tell the Administrative Law
17 Judges why they're not selective updates of Nicor
18 Gas's forecasts.

19 A During the period for filing our original
20 285 in November, two, what I would loosely classify
21 as two exogenous items were updated in our forecast.
22 One being the cost of equity and the other being the

1 cost of natural gas both of which are outside control
2 of Nicor and are more market driven.

3 We updated both of those market driven
4 items based on data available as of February 7, 2005.

5 Q Why did the company pick February 7 of
6 2005?

7 A It was -- the date of February 7, 2005, was
8 originally selected by staff of the Commission for
9 them to update the cost of capital -- the cost of
10 equity.

11 In an effort to narrow the differences
12 between the parties, we agreed to that date for
13 updating the price of natural gas also.

14 MR. RIPPKE: That's all I have.

15 Thank you very much.

16 JUDGE BRODSKY: Recross.

17 MR. KAMINSKI: Yes, your Honor.

18 RECROSS-EXAMINATION

19 BY

20 MR. KAMINSKI:

21 Q Mr. O'Connor, you were just questioned
22 regarding AG Cross Exhibit No. 2, specifically in its

1 relation to the numbers in Schedule G-7, correct?

2 A That is correct.

3 Q Looking at Line 9 of Schedule G-7, does
4 that indicate that there is a \$47,000 negative figure
5 under Column D?

6 A Yes, it does.

7 Q And does Line 7 indicate a positive number
8 of 800 -- I'm sorry, \$84,834,000?

9 A Are you --

10 Q Under Column D?

11 A That is correct.

12 Q So in order to go from a negative 47,000 to
13 an 800 -- I'm sorry, 8 -- strike that.

14 In order to go from a \$47,000 deficit
15 to an \$84,834,000 positive number, you would have to
16 have added \$84,881,000, correct?

17 A Can you restate the question?

18 Q In order to increase Column D from a
19 negative \$47,000 to a positive \$84,834,000, you would
20 have to increase Column D by a figure of \$84,881,000,
21 correct?

22 A I believe your math is correct, yes.

1 MR. KAMINSKI: At this time I would like to
2 renew my request to admit AG Cross Exhibit No. 2.

3 MR. RIPPIE: Can I have one re-redirect
4 question, your Honors. In fact, I'm not going to
5 object to the exhibit. I mean what --

6 JUDGE BRODSKY: You are or are not --

7 MR. RIPPIE: I am not going to object to the
8 exhibit, but I do have a re-redirect question on the
9 question Mr. Kaminski just asked.

10 JUDGE BRODSKY: Okay. If there's no objection
11 then AG Exhibit 2 is admitted.

12 (Whereupon, AG
13 Exhibit No. 2 was admitted
14 into evidence.)

15 JUDGE BRODSKY: Before we get to re-redirect,
16 was there anything further from Mr. Kaminski?

17 MR. RIPPIE: Sorry about that.

18 MR. KAMINSKI: No, I have nothing further.

19 JUDGE BRODSKY: Or from either staff or ELPC?

20 MS. BUGEL: Nothing further.

21 MS. SCARSELLA: Staff just has one clarifying
22 question.

1 JUDGE BRODSKY: Okay.

2 RECROSS-EXAMINATION

3 BY

4 MS. SCARSELLA:

5 Q Mr. O'Connor, you stated that with respect
6 to updates to cost of capital, that the company had
7 agreed with staff, I believe is what you said, as to
8 a certain date.

9 Can you tell us -- say who you agreed
10 with?

11 A No, let me clarify.

12 I said that the staff had selected a
13 date of February 7th to assess their cost of capital.

14 In the interests of narrowing the
15 differences, we chose February 7th to update our
16 request -- our file for the price of gas.

17 MS. SCARSELLA: That was it. Thank you.

18 JUDGE BRODSKY: Okay. Mr. Rippie.

19

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22

1 FURTHER REDIRECT EXAMINATION

2 BY

3 MR. RIPPIE:

4 Q I have one more question for you,
5 Mr. O'Connor, about Schedule G, as in George, 7.

6 The numbers appearing on Lines 2
7 through 13, the monthly numbers, are those cumulative
8 balances or are they the change in that given month?

9 A They are the change in the given month.

10 MR. RIPPIE: Thank you. That's all I have.

11 JUDGE BRODSKY: Okay. Anything further for
12 this witness?

13 Thank you, Mr. O'Connor.

14 THE WITNESS: Thank you.

15 JUDGE BRODSKY: All right. At this time we're
16 going take a 15-minute recess.

17 We will be back here at 11:00 o'clock.

18 Thank you.

19 (Whereupon, a brief recess
20 was taken.)

21 JUDGE BRODSKY: Let's get started again.

22 Just notation, for the benefit of the

1 record, I think at times I was referring to the
2 exhibits -- the cross exhibits as the AG had
3 identified them as just AG exhibit, so for the
4 benefit of the record, those are the same thing. All
5 right.

6 Is Nicor prepared to call the next
7 witness?

8 MR. RIPPIE: Yes, your Honors. The company's
9 next witness is Dr. Kenneth Gordon. He is in the
10 hearing room and at the witness' station now.

11 (Witness sworn.)

12 KENNETH GORDON,
13 having been called as a witness herein, after having
14 been first duly sworn, was examined and testified as
15 follows:

16 DIRECT EXAMINATION

17 BY

18 MR. RIPPIE:

19 Q Would you please state and spell your full
20 legal name for the reporter.

21 A Kenneth Gordon, K-e-n-n-e-t-h, G-o-r-d-o-n.

22 Q And Dr. Gordon, by whom are you employed

1 and in what position?

2 A I am self-employed but I work in
3 association with NERA Consulting Economists, a
4 consulting firm.

5 Q Have you prepared or caused to be prepared
6 under your direction and control for submission to
7 the Illinois Commerce Commission in this docket
8 surrebuttal testimony?

9 A Yes, I have.

10 Q Has that surrebuttal testimony been filed
11 with the Commission's e-docket system as Nicor Gas
12 Exhibit 35.0?

13 A My understanding that it has.

14 Q If I were to ask you the same questions as
15 appear in Exhibit 35.0, would you give me the same
16 answers today?

17 A Yes.

18 Q Dr. Gordon, have you prepared or caused to
19 be prepared for submission to the Commission in this
20 docket rebuttal testimony?

21 A Yes.

22 Q Is it your understanding that that rebuttal

1 testimony has been designated Nicor Gas Exhibit 19.0
2 and filed on the Commission's e-docket system?

3 A Yes.

4 Q With the exception of any corrections or
5 updates in the surrebuttal testimony, would you give
6 me the same answers as you gave in your rebuttal
7 testimony Exhibit 19?

8 A Yes.

9 Q Did you also prepare or cause to be
10 prepared under your direction and control rebuttal --
11 I'm sorry, direct testimony for submission to the
12 Commission in this docket?

13 A Yes.

14 Q Was that testimony designated Exhibit 2.0?

15 A Yes.

16 Q Were there erratas prepared to Exhibit 2.0?

17 A There were several.

18 Q Were there also Attachments 2.1 through 2.7
19 to Exhibit 2.0?

20 A Yes, there were.

21 MR. RIPPIE: Your Honor, the erratas have been
22 filed on e-docket as of -- the latest as of yesterday

1 and the most recent errata was also provided to all
2 the parties in the hearing room on a single page.

3 BY MR. RIPPIE:

4 Q Dr. Gordon, again, subject to any
5 corrections or updates made in your surrebuttal or
6 rebuttal testimony, were I to ask you the same
7 questions as appear in your corrected direct
8 testimony, would you give me the same answers today?

9 A Yes. Yes.

10 MR. RIPPIE: That's all the questions I have
11 for you today, sir.

12 And of course subject to
13 cross-examination, I would offer into evidence Nicor
14 Gas Exhibits 2.0, 2.1, 2.2, 2.3, and 2.4, 2.5, 2.6,
15 2.7, 19.0 and 35.0.

16 JUDGE BRODSKY: Any objection?

17 Hearing none, then those exhibits are
18 admitted subject to cross-examination.

19

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22

1 (Whereupon, Nicor
2 Exhibits 2.0, 2.1, 2.2, 2.3, 2.4,
3 2.5, 2.6, 2.7, 19.0 and 35.0 were
4 admitted into evidence subject to
5 cross-examination.)
6 JUDGE BRODSKY: Who wishes to proceed?
7 MS. SPICUZZA: Your Honor, I would like to
8 proceed, please.
9 JUDGE BRODSKY: You may do so.
10 MS. SPICUZZA: Thank you.
11 CROSS-EXAMINATION
12 BY
13 MS. SPICUZZA:
14 Q Good morning, Dr. Gordon. I'm Assistant
15 State's Attorney Marie Spicuzza. I'd like to ask you
16 a few questions, please.
17 Would you agree that today the prices
18 that Nicor's customers pay for their natural gas
19 service are based on both embedded costs and
20 competitively determined commodity charges?
21 A That's my understanding.
22 Q So is it correct to say that today

1 consumers are basing their consumption decisions on
2 the prices that Nicor charges?

3 A That would be the case.

4 Q Dr. Gordon, are you familiar with the work
5 of Wilfredo Pareto?

6 A Generally, yes. I'm trying to think of the
7 last time I read something by Pareto, but generally,
8 yes.

9 Q And is Wilfredo Pareto credited with Pareto
10 Optimality?

11 A I would suppose so, although I haven't
12 looked at history of economic thought much lately.

13 JUDGE BRODSKY: Just for the benefit of the
14 record, pardon me, but that's P-a-r-e-t-o?

15 MS. SPICUZZA: Yes. Thank you, your Honor.

16 BY MS. SPICUZZA:

17 Q When economists refer to a situation as
18 Pareto optimal, would you agree that they generally
19 mean that this is a situation in which no one
20 individual can be made better off without making any
21 one else worse off?

22 A That generally is the definition of Pareto

1 optimality. It's not a unique point however.

2 Q Thank you, Doctor.

3 I'd like to turn to your testimony or
4 I'm referring to your testimony here, Exhibit 35,
5 Lines 150 to 153, and I'm paraphrasing.

6 I believe you're testifying here that
7 the benefits of marginal cost pricing may accrue to
8 society as a whole in that reference.

9 Is that correct?

10 A Can you give me the reference.

11 Q Yes.

12 A Page would be helpful if you have it.

13 Q It is --

14 MR. RIPPIE: 6.

15 THE WITNESS: Thank you. I got it. What line?

16 MS. SPICUZZA: Lines 150 to 153 and it's Page
17 6.

18 THE WITNESS: Okay. The paging has changed
19 very lightly, the lining, rather.

20 BY MS. SPICUZZA:

21 Q Okay. But are you saying --

22 A I'm in my direct testimony and I'm on Line

1 156 and I have nothing.

2 MR. RIPPIE: Surrebuttal.

3 THE WITNESS: Surrebuttal. I misheard you.

4 I'm sorry. I'm a bit hard of hearing and the echo
5 sometimes blocks those out.

6 MS. SPICUZZA: Sorry.

7 THE WITNESS: Okay.

8 BY MS. SPICUZZA:

9 Q And are you testifying at Lines 150 to 153
10 of your surrebuttal that the benefits of marginal
11 cost pricing may accrue to society as a whole?

12 A That would be the case.

13 Generally all of society benefits when
14 you move to a Pareto optimality. Distribution of
15 those benefits is a separate issue.

16 Q Okay. Now, Dr. Gordon, are you familiar
17 with Calder-Hicks criterion?

18 A I would be hard put to state it. Been too
19 long since I have been an academic.

20 Q So --

21 A The answer is generally I was, but I'm not
22 prepared to state it in detail here.

1 Q Then, if you know, would you agree that the
2 Calder and Hicks compensation tests examine the
3 effects of a welfare change from the gainer's and
4 loser's point of view?

5 A I would suppose it could be used to do
6 that.

7 Q And, Dr. Gordon, have you performed or
8 discussed any Calder and/or Hicks compensation tests?

9 A I know of no one who has, including me.

10 Q In this proceeding you haven't done that?

11 A Actually I know of no one who has in an
12 empirical place anywhere.

13 Q Okay. Thank you.

14 Now, did you perform any other tests
15 of the welfare impacts of changing pricing
16 methodologies in this proceeding?

17 A What I did was advanced the principle of
18 steps that the Commission should take to improve
19 welfare; that is to say moving prices toward marginal
20 cost, that will in my judgment improve societal
21 welfare.

22 Q Dr. Gordon, when you were asked in a data

1 request -- excuse me.

2 You cited a paper, in both your
3 rebuttal in a footnote at Page 18 and your
4 surrebuttal at Page 7, you cited a paper authored by
5 Calvin Lancaster?

6 A I did cite that paper.

7 Q Thank you.

8 And when you were asked in a data
9 request to provide that document, you were not able
10 to do so; is that right?

11 A I'm not sure whether counsel has produced
12 that document or not. I have a copy of that
13 document. I have since obtained a copy of that
14 document and I understand it's available for more
15 general distribution.

16 MS. SPICUZZA: That's correct. That
17 document -- but I don't believe it was turned over in
18 a data request counsel, if you know?

19 MR. RIPPPIE: No. As I understand the issue
20 with this document is that the original is available,
21 but it is a copyrighted document and the copyright
22 holder could not be -- we couldn't get consent from

1 the copyright holder to have it.

2 A request was made to one of my
3 partners to have this here today and we do have the
4 original available.

5 MS. SPICUZZA: Thank you, counsel. I just
6 wanted to clarify that for the record.

7 I have no further questions, Doctor.
8 Thank you.

9 JUDGE BRODSKY: Okay. And IIEC.

10 MR. ROBERTSON: Yes, sir.

11 CROSS-EXAMINATION

12 BY

13 MR. ROBERTSON:

14 Q It's still morning. Good morning,
15 Dr. Gordon. My name is Eric Robertson. I represent
16 the Illinois Industrial Energy Consumers.

17 And it is my understanding based on my
18 review of your surrebuttal testimony that you
19 acknowledge that Nicor proposes to use an embedded
20 cost of service study to allocate revenue
21 requirements to the classes in this case; is that
22 correct.

1 A I'm aware of that, yes.

2 Q Now, is it also true to say that it was the
3 gist of your direct testimony that the cause of
4 efficiency is best served by using a marginal cost of
5 service study?

6 A That's correct.

7 Q Now, are you aware that there are several
8 versions of embedded cost of service studies that
9 have been advanced by Nicor and other parties in this
10 case?

11 A I'm aware of the one that they advanced --

12 Q All right.

13 A -- in this case.

14 Q All else equal, if there was a marginal
15 cost study in this case that approximated or came
16 close to approximating the results of the marginal
17 cost study that you supported, would you favor its
18 use as opposed to the use of other embedded cost
19 studies in order to promote efficiency?

20 A I would prefer to see the marginal cost
21 approach be the basis of the rates.

22 Q So if the embedded cost of service study

1 produced the same results as the marginal cost study,
2 you have indicated that you would prefer to use
3 marginal cost for the --

4 A Yes. The reason is that it may not always
5 lead to that happy circumstance.

6 Q And that's what I'm talking about.

7 In your opinion, in the unhappy
8 circumstance of the use of embedded cost, would you
9 prefer to use an embedded cost study that
10 approximated the results of the marginal cost study,
11 would that be more likely to promote efficiency in
12 your opinion?

13 A Can you restate that, please?

14 JUDGE BRODSKY: Mr. Robertson, could you use
15 the microphone, please.

16 MR. ROBERTSON: Thank you. Could the reporter
17 read it back?

18 (Whereupon, the record was
19 read as follows: In your opinion,
20 in the unhappy circumstance of the
21 use of embedded cost, would you
22 prefer to use an embedded cost

1 study that approximated the
2 results of the marginal cost
3 study, would that be more likely
4 to promote efficiency in your
5 opinion?)

6 THE WITNESS: The way you have phrased the
7 question it's a little hard for me to know what
8 exactly to answer.

9 My previous question was that I would
10 prefer to rely on a marginal cost study to base the
11 prices on.

12 MR. ROBERTSON: Correct.

13 BY MR. ROBERTSON:

14 Q But the company has not taken that position
15 in this case.

16 A That's right. That's correct.

17 Q So we are now left with an unhappy
18 circumstance where embedded cost will be used.

19 And my question to you is, if the
20 choice is between an embedded cost study that
21 approximates the results of the marginal cost study
22 and embedded cost study that does not approximate

1 those results, which study would you prefer?

2 A Now I understand the question.

3 I would prefer -- between the two?

4 Q Yes.

5 A On principle there's no basis that I can
6 think of to choose between them, so it would be a
7 result-oriented decision and frankly my comments
8 haven't been directed at the results. They have been
9 directed at the process that underlies it.

10 That would be for the judgment of the
11 Commission really. It would be a judgment call for
12 the Commissioners.

13 Q All right. And so if I understand your
14 testimony, the principle is more important than the
15 result?

16 A Both are important, but it would be my
17 expectation that over a period of time operating with
18 correct principles is more likely to generate results
19 that are consistent with efficiency than pursuing
20 wrong principles.

21 Q So if the results were the same or
22 approximately the same or approximating one another,

1 and the choice was to use an embedded cost of service
2 study that approximated the results of the marginal
3 cost in the short term, and to use -- or to use an
4 embedded cost of service study that didn't
5 approximate those results, you would indicate that it
6 wouldn't make any difference to you which study was
7 used; is that correct?

8 A From an economic -- from a pure economist
9 point of view I have no basis to choose between them.

10 If I were a Commissioner, I probably
11 would try to follow as close to where marginal cost
12 would have led us to.

13 Q Now, is it your position that it is
14 reasonable to use marginal cost to guide pricing
15 decisions?

16 A Yes.

17 Q And is it your position that this is
18 especially true when it comes to tail block pricing?

19 A That's a price that people see readily and
20 can adjust to, so yes.

21 Q Now, I take it that you believe that using
22 marginal cost as a guide to pricing decisions is

1 important and not only for tail block pricing but for
2 other rate elements as well; is that correct?

3 A Yes.

4 Q And would it be reasonable as well to use
5 marginal cost as a guide for pricing storage service,
6 for example?

7 A I'm not familiar enough with how storage
8 service works to know, but, in a general sense, I
9 would want to look at the incremental cost.

10 How that would be derived and
11 calculated, I don't know.

12 Q And that would be consistent with the
13 principles that you and I talked about earlier, is
14 that correct, as far as efficient pricing from an
15 economic point of view is concerned?

16 A It should unless there's something about
17 storage that I don't understand.

18 Q Now, when you use the phrase especially for
19 tail blocks in your testimony at Exhibit 35, Page 6,
20 Line 138 to 139 --

21 A Page 6 of which testimony?

22 Q Exhibit 35 in your surrebuttal.

1 A Surrebuttal, okay. Page 6. Okay. I have
2 it. What lines?

3 Q 138 to 139. That's where you say it's
4 reasonable to use marginal cost as a guide for
5 pricing decisions, especially when it comes to tail
6 block pricing.

7 A I see that.

8 Q Okay. Now, when you use the phrase
9 especially for tail blocks, is that partly because
10 you consider that rate component to be the most
11 elastic rate component of the rate?

12 A It may well be. I haven't done any studies
13 but I would expect that it would probably be.

14 Q Now, do you agree generally that the
15 customer charge is usually the less elastic component
16 of the rate?

17 A That is probably the case.

18 Q Now, if the current tail block were below
19 marginal cost, the tail block in Nicor's current
20 rates, does that mean that Nicor would be losing
21 money if that customer used more gas?

22 A Talking about the marginal cost of delivery

1 service now or the marginal cost of the whole package
2 including gas?

3 Q Well, if your answer would differ depending
4 on what it is.

5 A I'm just trying to see what situation
6 you're positing.

7 Q All right. Give me the first circumstance
8 again, please.

9 A If the price is less than the marginal
10 cost.

11 Q Yes.

12 A Yes, then each additional -- or to the --
13 or the combination thereof of -- well, gas is tricky
14 because as I understand it there are separate --
15 handled separately.

16 But yes it would be incurring more in
17 the way of costs than in the way of revenues.

18 Q All right. And leaving aside the commodity
19 portion of the rate, if the tail block applies to
20 delivery service, they would likely be losing money
21 on the service to that customer the more gas the
22 customer used?

1 A Yeah to the extent that the customer using
2 more gas meant the consumption of more delivery
3 services and they were paying less than the cost of
4 it, that would be the case.

5 Q Now, are you aware based on your review --
6 you reviewed the company's order from the last case?

7 A I did not.

8 Q You did not.

9 Are you aware of whether Nicor is
10 attempting to discourage large industrial or
11 commercial customers from using more gas on their
12 system?

13 A I'm not aware of that.

14 Q Are you aware that Nicor has actually
15 extended anti-bypass rates or contracts for large
16 customers in order to prevent them from leaving the
17 Nicor system?

18 A Not specifically aware of that. I may have
19 seen it in looking over materials in preparation, but
20 I'm not remembering it specifically.

21 Q Would you be willing to accept as a
22 hypothetical that the company is offering -- offers a

1 Rate 17 to customers?

2 A That would have to be subject to check as a
3 hypothetical.

4 Q All right. If you would accept that
5 subject to check and would you accept that the
6 purpose of that rider -- one of the purposes of that
7 rate is to prevent customers from bypassing the NIGas
8 system?

9 A That would probably be the purpose.

10 Q Now, is there any inference that one can
11 draw from Nicor's extension of rate such as Rate 17
12 to prevent bypass and Nicor's current tail block rate
13 for its large customers?

14 A Can you rephrase that, please, the last
15 part. The question part.

16 Q What inference might one be able to draw
17 from the fact that Nicor is offering a Rate 17 as an
18 anti-bypass rate to larger customers, what inference
19 can be drawn from that in relation to the level of
20 Nicor's current tail block rate?

21 A Without -- I couldn't draw an inference
22 without looking at the numbers.

1 Q What would you need to look at, what the
2 level of the rate was?

3 A I need to know what the levels of both
4 rates were. Possibly other information as well if I
5 were performing analysis.

6 Q Now, at Page 24 of Nicor Exhibit 2.0, your
7 direct testimony --

8 A Okay. Page what?

9 Q 24.

10 A Okay. I have it.

11 Q Now --

12 A What line?

13 Q We're going to talk to you about your
14 question and answer that begins at Line 470.

15 A Okay.

16 Q Those criteria for setting public utility
17 rates, how long have those criteria existed?

18 A I'm not sure when the first edition of
19 James Baumbright's price book came out. It was a
20 while ago.

21 Q Was it before the popularity of or the use
22 of marginal cost pricing for setting electric and gas

1 rates?

2 A Actually I'd be hard to answer that because
3 the use of marginal cost spread over time. I'm not
4 sure when the first example was. Probably before.
5 Baumbright would probably be older. Then it became
6 common in regulated settings anyway.

7 Q Wasn't it -- isn't it true that marginal
8 cost pricing became popular after the passage of the
9 PURPA law?

10 A The PURPA law certainly encouraged the
11 adoption of marginal cost principles.

12 Now, more broadly in the economy,
13 marginal cost pricing is long accepted as leading to
14 optimal and efficient results. And so it's a
15 thought, I think, for a long time was that perhaps
16 these principles could be translated over to the
17 regulated sphere, but that -- I'd be surprised if
18 there were no cases preceding PURPA, but certainly
19 PURPA was a big step toward encouragement.

20 Q These criteria can also be implied --
21 applied to use of embedded cost study, can they not?

22 A The Baumbright principles here.

1 Q Yes. The one you discuss at 474 to 480?

2 A Yes, in a narrow sense.

3 Let me explain what I mean by that.

4 For example, take the first one, consumer rationing.

5 Cost-based rates provide the signal for customers to

6 balance the benefits, i.e., whether they decide to

7 whether to buy or not.

8 In my view, if embedded costs are the

9 basis, then that signal will be distorted. It

10 certainly will send a signal but it won't be a signal

11 that is consonant with pursuit of efficiency.

12 Q Would it be safe to say that embedded cost

13 can address these principles but in your opinion not

14 as well as marginal cost?

15 A That's correct.

16 Q Now, would you agree that if the choice

17 were between using -- let's leave marginal cost out

18 of the picture all together.

19 If the choice were between using an

20 embedded cost of service study for revenue allocation

21 and using no cost of service study for revenue

22 allocation, would you prefer to use embedded -- the

1 results of the embedded cost of service study in
2 order to --

3 A I'm not sure what it means to use no study
4 whatsoever, then allocate. You'd have to do
5 something to do it. You'd have to collect figures
6 and have a decision process of some sort for saying
7 where those monies go, and that would amount to an
8 embedded cost of service study unless it were
9 built -- unless the analyst built on marginal
10 principles.

11 Those are the choices. I assume they
12 wouldn't do it randomly.

13 Q Like throwing darts?

14 A Pardon?

15 Q Like throwing darts?

16 A One would hope not.

17 MR. ROBERTSON: That's all I have. Thank you.

18 JUDGE BRODSKY: Any questions?

19 JUDGE ARIDAS: No.

20 JUDGE BRODSKY: Okay. Just one from me,
21 Dr. Gordon.

22

1 EXAMINATION

2 BY

3 JUDGE BRODSKY:

4 Q Although the vernacular connotation is --

5 A I'm sorry?

6 Q Although the vernacular connotation of the
7 term is quite obvious, could you define society as
8 you were using the term in your testimony as an
9 economist.

10 A Society would mean the whole relevant
11 economy in which this industry and others are
12 embedded.

13 And the reason is that there may be
14 spillovers to -- there will be effects on other
15 people's consumption when they see correct prices.

16 So it would be the U.S. economy, for
17 example, as a whole, in principle the world economy,
18 but in reality you'd be probably a little bit
19 narrower than that.

20 The point is simply that resources
21 that could be being used elsewhere in the economy or
22 different things that people could be consuming have

1 to be considered and that's what setting prices equal
2 to marginal cost essentially does. It forces people
3 to see the consequences of their actions.

4 Q So are you speaking specifically to the set
5 of Nicor customers?

6 A Certainly includes the set of Nicor
7 customers, and that would be -- this would be where
8 the primary impact was in all likelihood.

9 Q And you're suggesting that there may be
10 secondary externalities that -- or spillover effects
11 that --

12 A Wouldn't call them externalities in this
13 case. There might be some but that's a separate
14 issue.

15 There certainly might be some
16 consequences outside the sphere of consideration.

17 However, in my judgment, those are
18 very likely to be second order effects, i.e., small,
19 and it's probably safe to ignore them for the
20 purposes of regulating an industry.

21 The Illinois Commerce Commission has
22 purview of the regulated sector and I don't think it

1 really has the capacity or the need to extend its
2 oversight beyond that.

3 Q So, in other words, the key society that
4 you're speaking to and testifying about is
5 essentially Nicor and its customers?

6 A Essentially. At a practical level.
7 Certainly at a theoretical level, it could be larger.

8 JUDGE BRODSKY: Thank you.

9 Redirect.

10 MR. RIPPIE: None, your Honors.

11 JUDGE BRODSKY: Thank you, Dr. Gordon.

12 THE WITNESS: Thank you.

13 JUDGE BRODSKY: You set to call the next
14 witness.

15 MR. FEELEY: Are we going on to the next
16 witness?

17 JUDGE BRODSKY: Yes.

18 MR. FEELEY: I have to get staff counsel to do
19 that.

20 (Whereupon, a brief recess
21 was taken.)

22 JUDGE BRODSKY: Is the only cross coming from

1 staff then or is there more from another party?

2 MR. FOSCO: I believe it's only staff.

3 MR. RIPPIE: It's only staff.

4 JUDGE BRODSKY: Go ahead.

5 You can call the witness.

6 MR. RIPPIE: Your Honors, the company's next

7 witness is Mr. Robert Mudra.

8 Mr. Mudra is in the hearing room and

9 at the witness' station.

10 (Witness sworn.)

11 ROBERT MUDRA,

12 having been called as a witness herein, after having

13 been first duly sworn, was examined and testified as

14 follows:

15 DIRECT EXAMINATION

16 BY

17 MR. RIPPIE:

18 Q Would you be so kind please as to state and

19 spell your full name for the court reporter?

20 A Robert R. Mudra, M-u-d-r-a.

21 Q By whom are you employed and in what

22 position?

1 A Nicor Gas as the director of rates and
2 financial analysis.

3 Q Mr. Mudra, did you prepare or have prepared
4 under your direction and control surrebuttal
5 testimony for submission to the Illinois Commerce
6 Commission in this proceedings?

7 A Yes, I have.

8 Q Has that testimony been marked and filed to
9 the best of your understanding on the Commission's
10 e-docket as Nicor Gas Exhibit 36?

11 A Yes, it has.

12 Q Are there exhibits thereto designated 36.1
13 and 36.2?

14 A Yes, there are.

15 Q Mr. Mudra, if I were to ask you the same
16 questions that appear in Nicor Gas 36.0 and exhibits
17 thereto, would you give me the same answers today?

18 A Yes, I would.

19 Q Have you prepared or caused to be prepared
20 under your direction and control rebuttal testimony
21 for submission to the Commission in this docket?

22 A Yes, I have.

1 Q Has that testimony previously been marked
2 Nicor Gas testimony -- I'm sorry, Nicor Gas 20-B, as
3 in Bravo, .0?

4 A Yes, it has.

5 Q Are there exhibits to that testimony
6 designated as Nicor Gas Exhibit 20 Bravo dot one
7 through 20 Bravo dot eight?

8 A Yes, there are.

9 Q Has there been errata to 20-B.1 posted on
10 the e-docket system and -- posted on the e-docket
11 system?

12 A Yes, there has.

13 MR. RIPPIE: Your Honors, that is a single page
14 errata which is available in the hearing room today.
15 BY MR. RIPPIE:

16 Q Subject to that errata and to any updates
17 or corrections made in your surrebuttal testimony,
18 were I to ask you the same questions that appear in
19 your rebuttal testimony today, would you give me the
20 same answers?

21 A Yes, I would.

22 JUDGE BRODSKY: Mr. Rippie, if that's a newly

1 circulated errata to 20-B, if you could please dot
2 same procedure with three copies to the court
3 reporter, et cetera.

4 MR. RIPPIE: Fair enough. I'll do that.

5 For the record that was also filed on
6 the e-docket system yesterday both as an individual
7 page and as a complete replacement testimony so
8 parties and your Honors could get either.

9 JUDGE BRODSKY: It's already on e-docket, then
10 that's fine. No need for copies to the reporter.
11 Thank you.

12 BY MR. RIPPIE:

13 Q Mr. Mudra, has a direct testimony been
14 prepared by you or under your direction and control
15 for submission to the Commission in this case?

16 A Yes, it has.

17 Q Has that direct testimony been designated
18 Nicor Gas Exhibit 3 Bravo point zero?

19 A Yes, it has.

20 Q And are there exhibits thereto designated 3
21 Bravo point one through 3 Bravo point four?

22 A Yes, there are.

1 Q Subject to any updates or changes noted in
2 your rebuttal and surrebuttal testimony, were I to
3 ask you the same questions that appear on
4 Exhibit 3-B, would you give me the same answers
5 today?

6 A Yes, I would.

7 MR. RIPPIE: That's all the questions I have
8 for you, sir.

9 And at this point, subject to
10 cross-examination, I would move into evidence Nicor
11 Gas Exhibits 3-B.0 through 3-B.4; 20-B.0 through
12 20-B.8; 36.0, 36.1 and 36.2.

13 JUDGE BRODSKY: Any objection?

14 Hearing none then those are admitted
15 subject to cross-examination.

16 (Whereupon, Nicor Exhibits
17 No. 3-B.0 through 3-B.4; 20-B.0
18 through 20-B.8; 36.0, 36.1 and
19 36.2 were admitted into evidence
20 subject to cross-examination.)

21

22

1 (Whereupon, Staff
2 Exhibit No. 19 was marked
3 for identification.)

4 JUDGE BRODSKY: Go ahead.

5 MR. REICHART: Thank you, Judge. Just as an
6 initial housekeeping matter, in an effort to
7 eliminate some of the cross that we had scheduled for
8 this morning, company and staff have agreed to the
9 admission of some DR responses that the company
10 provided in response to some staff DR requests.

11 We'll just circulate those at this
12 time.

13 And we have marked them as ICC Staff
14 Exhibit 19.

15 My understanding is there is no
16 objection to the admission of this set of cross
17 exhibits.

18 MR. RIPPPIE: That is correct.

19 JUDGE BRODSKY: Okay. Then staff 19.0 is
20 admitted.

21 (Whereupon, Staff
22 Exhibit No. 19 was admitted

1 into evidence.)

2 MR. REICHART: And throughout my
3 cross-examination to follow there are a number of
4 other documents that I will be identifying. We have
5 not come to an agreement -- we haven't requested
6 agreement at this time.

7 I will identify those as ICC staff
8 exhibits at the time I reference them and then I
9 think at the end of my cross we'll determine if we
10 want to seek for their admission, if that's --

11 JUDGE BRODSKY: That's fine. Actually let's
12 pause on 19.0 for a minute.

13 Was the company stipulating to
14 admission or to -- or just not objecting.

15 MR. RIPPPIE: No, we had agreed that these data
16 requests were appropriately admitted as Mr. Reichart
17 said in an effort to save cross-examination time.

18 I believe to the extent that redirect
19 might be necessary there might be some and I also
20 understand that Mr. Reichart may have
21 cross-examination on these, but we have agreed that
22 they're properly admitted.

1 JUDGE BRODSKY: Well, please tie them in,
2 but -- to the extent that they save
3 cross-examination. Beyond that then, that's
4 certainly fine. Okay.

5 MR. REICHART: I'm sorry, I didn't hear your
6 first.

7 JUDGE BRODSKY: Please be sure to tie the
8 contents of 19.0 into the record.

9 MR. REICHART: Well essentially they are, with
10 the exception of one response, they are responses
11 that pertained -- that were directed to Mr. Mudra --
12 or Mr. Mudra was the sponsoring company individual
13 who provided the response.

14 So they are, I feel, directly related
15 to his testimony. I don't think there's a concern
16 about them being beyond the scope of the testimony he
17 provided.

18 JUDGE BRODSKY: Okay. That's fine. Go ahead.

19 CROSS-EXAMINATION

20 BY

21 MR. REICHART:

22 Q Good morning, Mr. Mudra.

1 A Good morning.

2 Q My name is John Reichart. I represent the
3 staff of the ICC and I have a few questions for you
4 this morning.

5 As I mentioned before, there are a
6 number of exhibits I'll be referencing and I'll make
7 all attempts to provide copies to you and give you
8 time to look at those before I ask you follow-up
9 questions.

10 First question I have for you actually
11 is in reference to your rebuttal testimony at Page 22
12 in your discussion of short-term debt.

13 You make reference to previously filed
14 testimony in another Commission docket filed by staff
15 witness Ms. Freetley. I'm referring specifically to
16 Lines 503 through 507.

17 Now, here you indicate, for example,
18 in Commonwealth Edison's most recent delivery service
19 tariff proceedings staff testified that such
20 short-term debt should not be included in
21 Commonwealth Edison's capital structure because
22 short-term debt is not a permanent source of

1 financing rate base investments by ComEd; is that
2 correct?

3 A That is correct.

4 Q Okay. Now, I take it that you reviewed
5 Miss Freetley's testimony in that ComEd docket prior
6 to incorporating this quote into your testimony in
7 this case?

8 A I have reviewed that statement and
9 understand that she has made that statement.

10 Q Okay. Can you give me some background on
11 how you came to be familiar with this statement?

12 A I can't quote the exact document, but I
13 reviewed a document with that statement and
14 understand that she has made that statement that
15 short-term debt is not a permanent sort of financing
16 rate base investments by ComEd.

17 Q Do you know if the document you reviewed
18 was Ms. Freetley's testimony in that case?

19 A Yes. It is cited here as testimony.

20 Off the top of my head, I can't recall
21 if it's specifically testimony.

22 Q Okay. Well, based on your review of

1 whatever documents you reviewed in preparing your
2 testimony here, do you know why Ms. Freetley
3 concluded that short-term debt was not a permanent
4 source of financing rate base investments by ComEd?

5 A Not specifically, no.

6 Q Do you know if Ms. Freetley determined that
7 ComEd either did not or did not expect to have
8 outstanding short-term debt during the measurement
9 period for its capital structure?

10 A Not specifically, no.

11 Q You mentioned before that you believe that
12 you may have reviewed Ms. Freetley's testimony in
13 that case in coming to your reliance on this
14 statement in your testimony.

15 Do you remember if you reviewed
16 Ms. Freetley's rebuttal testimony in that case?

17 A No. As I mentioned earlier, I don't recall
18 the specific source, though it is cited here and I
19 understand that statement to be correct and made by
20 Ms. Freetley.

21 Q Mr. Mudra, I'm now going to show you a copy
22 of Ms. Freetley's rebuttal testimony in Docket

1 No. 01-0423 which is the same document -- same docket
2 that you referenced in your testimony. I'd like to
3 refer you to the page attached. It's Page 14 and
4 footnote 13.

5 Do you agree that Ms. Freetley makes
6 the statement, if ComEd had any short-term debt, I
7 would have included it in my recommended capital
8 structure for this proceeding?

9 A I see that statement.

10 Q Do you recall if you reviewed this
11 testimony or this document in the context of your
12 preparation of your rebuttal testimony?

13 A I do not recall.

14 Q I'd next like to refer you to your
15 surrebuttal testimony, specifically I believe it's
16 the first and only attachment. I'm sorry, that's
17 wrong. It is Exhibit 36.2. One-page attachment.

18 A Yes.

19 Q It's titled alternative cost of capital
20 illustrations; is that correct?

21 A That is correct.

22 Q And under class of capital you have a

1 designation or an item in Line Item 1 for short-term
2 debt; is that correct?

3 A That is correct.

4 Q And the corresponding number for short-term
5 debt is 36,625,000; is that correct?

6 A That is correct.

7 Q And when I look at Revised Schedule B-1,
8 which appears below line Item 6 -- I'm sorry, let me
9 make a clarification.

10 Under the heading revised schedule
11 B-1, it appears that in order to derive the balance
12 of short-term debt, you subtract from gas in storage
13 customer deposits, budget plan balances, and customer
14 advances for construction ; is that correct?

15 A That is correct.

16 Q Mr. Mudra, can you explain to me what
17 customer deposits are?

18 A Customer deposits are dollars that the
19 customer has on deposit with the company, whether it
20 be for pending balances on their account if they have
21 deposits in their accounts.

22 Q Could you explain what budget plan balances

1 are?

2 A Budget plan balances similarly relate to
3 customers who are on the company's budget payment
4 plan in which they contribute a set or a dollar
5 amount each month for their gas bill and they may
6 accumulate credit balances in their account.

7 Q And then finally can you explain to me what
8 the customer advances for construction are?

9 A Likewise, if the customer has deposited
10 with Nicor dollars for construction or the
11 installation of service lines, those dollars are
12 reflected.

13 Q Would you agree that customer advances for
14 construction include advances for construction from
15 customers that the company will repay after asset
16 under construction is put into use?

17 A That is correct.

18 Q And are you generally in agreement with the
19 definition for customer advances for construction
20 that appears in the uniform system of accounts -- let
21 me ask this first.

22 Are you familiar with the uniform

1 system of accounts?

2 A Yes.

3 Q Okay. Are you aware of the Account No. 252
4 that deals with customer advances for construction?

5 A Not specifically, no.

6 Q Mr. Mudra, just to clarify, subject to
7 check, would you agree that Account 252 is described
8 as follows:

9 This account shall include advances by
10 customers for construction which are to be refunded
11 either wholly or in part when a customer is refunded
12 the entire amount to which he is entitled according
13 to the agreement or rule under which the advance was
14 made. The balance, if any, remaining in this account
15 shall be credited to the respective plant account.

16 A I would accept that subject to check.

17 Q Thank you.

18 Mr. Mudra, do you know if Nicor Gas
19 intends to issue any common equity in year 2005?

20 A No, I am not aware of any plans to issue
21 common equity in '05.

22 Q Similarly, are you aware if Nicor Gas

1 intends to issue any long-term debt in 2005?

2 A I'm not aware of any plans to issue debt in
3 '05.

4 Q Do you know if Nicor Gas intends to issue
5 any preferred stock in 2005?

6 A No, I am not aware of any plans to issue
7 preferred stock in 2005.

8 Q Are you familiar with Nicor Gas's balance
9 sheet?

10 A Yes.

11 Q Do you agree, Mr. Mudra, that there must be
12 one dollar's worth of liabilities or owner's equity
13 for each dollar of asset on the company's balance
14 sheet?

15 A Yes, I would.

16 Q Mr. Mudra, are you familiar with S & P's
17 corporate ratings criteria for commercial paper?

18 A Yes, I am.

19 Q And is it your belief that S & P is a
20 recognized authority with regard to corporate credit
21 and commercial paper ratings?

22 A Yes, they are.

1 Q Do you rely on S & P documents and research
2 in preparing your testimony?

3 A Yes, I have.

4 Q Like to show you a document that I'm going
5 to ask to be marked as ICC Cross Exhibit 20. I have
6 not marked it as such yet, and I apologize for that,
7 but I will do so before it's submitted to the court
8 reporter.

9 For the record, this is a Standard and
10 Poor's ratings direct document titled research
11 corporate ratings criteria rating each issues,
12 distinguishing issuers and issues, junior depth,
13 notching down well secured debt, notching up
14 commercial paper preferred stock.

15 Are you familiar with this document,
16 Mr. Mudra?

17 A I do not believe I have reviewed this
18 document before.

19 Q Are you familiar with S & P ratings
20 directory search documents?

21 A I do not track or monitor them on a regular
22 basis, though I know they exist.

1 Q Okay. I'd like to refer you to a statement
2 made under the commercial paper ratings criteria
3 section of this document. That section itself begins
4 on Page 10 of 16. The reference I'd like to point
5 you to appears on Page 12.

6 It is a statement in the paragraph
7 above the two bullet points. That first paragraph
8 reads or the first sentence of that paragraph reads:
9 Companies rated A1 plus can provide 50 percent to 75
10 percent coverage.

11 Is that a correct statement of the
12 document?

13 A That is what the document says.

14 Q Okay. Are you familiar with what coverage
15 criteria is with regard to this document?

16 A It could mean a number of different things.

17 Q How do you use the term coverage in
18 analyzing the criteria needed for commercial paper?

19 A I'm not familiar with what meaning they
20 have for this particular use of the term coverage
21 relating to commercial paper in this document.

22 Q If I could refer you to Page 11, the page

1 immediately before the statement that I was just
2 referencing. Towards the bottom of the page, there
3 is the header back-up policies which makes reference
4 to commercial paper given that is it reasonable to
5 assume that this statement refers to coverage of
6 commercial paper?

7 MR. RIPPPIE: Your Honor, at this point I have
8 to object to this. This is a document the witness
9 hasn't seen. He says he doesn't know what the --
10 which coverage ratio is being referred to. And it
11 wasn't produced I believe in discovery. And he tells
12 you he's not familiar with it.

13 We're essentially now reading pieces
14 of a hearsay document into the record and at that
15 point I have an objection.

16 JUDGE BRODSKY: Response?

17 MR. REICHART: Can I just have one moment.

18 I'll move on.

19 BY MR. REICHART:

20 Q Mr. Mudra, do you know what Nicor Gas's
21 commercial paper rating is.

22 A A-1 plus.

1 Q And --

2 A By S & P and P1 by Moody's.

3 Q Okay. I'd like to next refer you to a
4 document that I'm going to ask to be marked as ICC
5 Staff Exhibit 21.

6 For the record this document is a copy
7 of a letter that the company provided in response to
8 the Part 285 deficiencies memo in this case.

9 Mr. Mudra, are you familiar with this
10 document?

11 A Yes, I am.

12 Q I'd like to refer you to the second page of
13 the actual document?

14 MR. RIPPIE: Do you mean the second page of the
15 text?

16 MR. REICHART: I'm sorry, the second page of
17 the letter within the document.

18 BY MR. REICHART:

19 Q Under Section 285.4050, Schedule D-5,
20 unrecovered common equity issuance costs, the
21 deficiency read Section 285.4050-B7 requires the
22 identification of the method of rate treatment

1 approved by the Commission including supporting
2 documents. No such treatment was identified.

3 Commission rate treatment must be
4 identified and supporting documents provided.

5 Is that correct?

6 A That is correct.

7 Q And how did the company respond?

8 A On the letter, you mean?

9 Q Yes.

10 A It says on the letter, a footnote has been
11 added to Schedule D5 to indicate that the Illinois
12 Commerce Commission has not previously approved a
13 method of rate treatment for recovery of flotation
14 costs.

15 Q And as far as you're aware that was the
16 company's entire response; is that correct?

17 A With the inclusion of our Part 285 filing
18 requirements on Schedule D5, the company submitted
19 work papers D51, Page 1 of 1, and under Footnote E we
20 responded at December 2003, the total Nicor Gas
21 common stock issuance expense reported in prime
22 Account 214 capital stock expense was \$478,277.

1 This is the same amount as was
2 reported at December 1978.

3 The 1979 stock issuance reported on
4 the schedule was issued by Nicor, Inc., not Nicor
5 Gas.

6 Had any of this amount been recovered
7 through rates the expense would have been amortized
8 and the balance in Prime Account 214 would have been
9 reduced by the amount collected and we provided that
10 with our original Part 285 filing to the Commission.

11 Q Mr. Mudra, was that information you just
12 referenced filed in response to the Commission's
13 deficiency memo?

14 A That information was filed even prior to
15 the deficiency memo.

16 Q Isn't it, in fact, true that in response to
17 the Commission's deficiency memo, footnote was added
18 to Schedule D5 stated that the ICC has not previously
19 approved a method of rate treatment for recovery of
20 flotation costs?

21 A That is correct.

22 We added the footnote for further

1 clarification, though we thought that in our original
2 filing we had been clear about the recovery through
3 rates, though we understand it was not clear enough.

4 Q Thank you. I have another document I'd
5 like to refer you to.

6 This one I'll ask to be marked as ICC
7 Staff Exhibit 22. While it's being passed around,
8 for the record, it is a document titled WPD-24 which
9 is a work paper that was included in the company's
10 285 filing.

11 Are you familiar with this document?

12 A Yes, I am.

13 Q And is it correct to say that this document
14 generally deals with fees associated with credit
15 agreements between Nicor -- between Nicor and banks?

16 A Yes, this document relates to agreements
17 corresponding to the establishment of the company's
18 syndicated credit facilities that are used to back
19 our commercial paper program.

20 Q Thank you.

21 And looking at the document, it
22 appears that there are two types of agreements.

1 There is a 360-day agreement and a 180-day agreement;
2 is that correct?

3 A That is correct.

4 Q I'd like to refer you to the far left
5 column, the second item down refers to upfront fees.
6 Actually, I'm sorry, may I take a step back.

7 Mr. Mudra, are you aware when the
8 360-day agreements referenced in this docket were
9 entered into?

10 A Roughly in, I would say, August of 2004.

11 Q Okay. And do you know when those
12 agreements expired?

13 A I'm sorry, referring back to this maybe
14 from a prior revolving credit program, we did -- the
15 company did establish a syndicated credit facility in
16 August of 2004.

17 However, looks like this document goes
18 back to 2003 so it may have been the previous
19 arrangement.

20 Q Do you know for sure or are you
21 speculating?

22 A I would expect that's the case, because of

1 the date, problem with the dates.

2 Q So you believe that it would have been
3 entered -- these agreements would have been entered
4 into, at least for the 360-day agreement, entered
5 into in August of 2003?

6 A Probably in that time period in the early
7 fall of 2003.

8 Q And have they expired or do you know when
9 they will expire?

10 A There's a three-year portion which you
11 indicate the 360-day portion which would expire in
12 2006.

13 I'm not sure if this document is
14 referencing our current credit arrangement which the
15 current credit arrangement that the company has was
16 established in 2004 in August and it extends for a
17 three-year period on through '05, '06 and '07, and
18 then it has a 180-day portion as well which expired
19 in April of 2005.

20 So the three-year portion of our
21 current syndicated credit facility is still
22 outstanding and won't expire for another couple

1 years. But the 180-day portion is expired.

2 Q Mr. Mudra, could you clarify once more
3 concerning the 180-day agreement, when that would
4 begin and when it would expire?

5 A It would begin in August of 2004 and expire
6 in approximately April of 2005.

7 Q One more clarification, Mr. Mudra.

8 Would it be correct to say that with
9 regard to this document, that the 180-day agreement
10 would similarly have begun in August of 2003 and
11 expired in April of 2004?

12 A Yes.

13 Q Okay. Thank you. If I can refer to you
14 the left-hand column of this document. There is an
15 item titled upfront fees. Do you see that?

16 A Yes, I do.

17 Q And can you define for me what an upfront
18 fee is?

19 A When Nicor Gas goes to the bank market to
20 establish a syndicated borrowing facility, it
21 contacts various banks and establishes a lead bank.

22 And in association with establishing

1 and paying for the services of the bank to solicit
2 bids to fund the approximately \$1 billion notional
3 value that was noted here, there are various fees,
4 some of which are paid up front, some of which are
5 paid for other purposes throughout the term of the
6 revolver.

7 Q And is upfront fee a one-time fee for a
8 particular agreement?

9 A Yes. It's paid in advance at the beginning
10 of the program.

11 Q So it's not recurring?

12 A Yes. That's my understanding.

13 Q Mr. Mudra, I'm sorry, I have one more
14 clarification regarding the timing of the 360-day
15 agreement.

16 Just to be clear, for the purposes of
17 this documents that includes the 2003 assumptions, is
18 it correct that the 360-day agreement would begin in
19 August of 2003 and end in April of 2006?

20 A No. This was a work paper supporting some
21 historical credit arrangements and that \$1 billion
22 notional value I am -- it does not appear that that

1 was a three-year arrangement. It was probably a
2 one-year arrangement, 360 days.

3 So it ended, I would imagine, subject
4 to check, in, you know, a year later in 2004.

5 Q So August of 2004?

6 A Yes.

7 Q Okay.

8 If we can go back to the column
9 upfront fees.

10 I believe you have explained that
11 upfront fees are a one-time fee per agreement. I'd
12 like to ask you about arrangement fees, the next
13 item.

14 Could you define for me what
15 arrangement fees are?

16 A Again, these are costs associated with
17 funding the process of establishing a banking
18 syndicate to be able to back the commercial paper
19 program of the company.

20 There are a variety of different fees
21 that the company experiences, not only the fees
22 listed here, but also internal legal and expense fees

1 associated with establishing a facility.

2 And these are fees that the company
3 incurred from its external parties in establishing a
4 facility and arranging the facility.

5 Q And are these recurrent fees or are they
6 one-time fees.

7 A I believe those are also one-time fees.

8 Q Okay. The next item in that column,
9 administrative fees, could you briefly define for me
10 what those are?

11 A The administrative fees, again, are fees
12 for the administration and establishment of the
13 facility.

14 Q And how often are those fees paid?

15 A There are different terms in the facilities
16 within a given year, so there may be different timing
17 of some fees.

18 This looks like a relatively small
19 amount. It was probably paid upfront for an
20 administrative fee, but it's also the fact that the
21 company may have ongoing fees throughout the facility
22 as well.

1 Q Okay. So is it correct to say just for
2 clarification that upfront fees and arrangement fees
3 are one-time fees, administrative fees could be
4 one-time fee but also could be recurring fees?

5 A That's true.

6 JUDGE BRODSKY: Are there any other questions?

7 MR. REICHART: I'm sorry, could I have one
8 moment?

9 BY MR. REICHART:

10 Q Mr. Mudra, would you be willing to provide
11 a written confirmation of your understanding that the
12 360-day agreement referred to in this document is in
13 fact a one-year agreement?

14 A Yes, I would, subject to check, go back and
15 be happy to provide more clarification about that.

16 MR. RIPPIE: Your Honors, I'd prefer rather
17 than having this done as an examination of the
18 witness who's likely going to go discharged today, if
19 you want to make an on-the-record data request, we'll
20 respond promptly. I mean --

21 THE WITNESS: Yes.

22 MR. RIPPIE: My understanding is the question

1 you're asking is fairly simple and direct and we can
2 do that.

3 MR. REICHART: Could we -- I guess our concern
4 is we want to make sure that the response made it
5 into the record.

6 Is that something that you would be
7 willing to do?

8 MR. RIPPIE: Yes.

9 MR. REICHART: Okay. Thank you. That's all I
10 have for you. Thank you very much, Mr. Mudra.

11 Prior to ending my cross, I would like
12 to move for the admission of some of the documents I
13 identified, specifically I would move for the
14 admission of ICC Staff Exhibit 21 and 22. Those are
15 again the deficiency letter and the work paper in
16 support of the 285 filing.

17 MR. RIPPIE: No objection.

18 JUDGE BRODSKY: Okay. Then Exhibits 21 and 22
19 are admitted.

20 (Whereupon, Staff
21 Exhibits 20 to 22 were marked
22 for identification.)

1 (Whereupon, Staff
2 Exhibits 21 and 22 were admitted
3 into evidence.)
4 JUDGE BRODSKY: So then you are not moving the
5 admission for 19 or 20?
6 MR. REICHART: I'm sorry, I believe you already
7 ruled on 19. That is the DRs.
8 JUDGE BRODSKY: Right. Right. Right. Okay.
9 Excuse me. So only 20 is not being moved?
10 MR. REICHART: Correct.
11 JUDGE BRODSKY: Okay. Then that concludes your
12 cross?
13 MR. REICHART: Yes, it does.
14 JUDGE BRODSKY: Redirect.
15 MR. RIPPIE: One minute, please, your Honor.
16 JUDGE BRODSKY: Sure.
17 (Whereupon, a brief recess
18 was taken.)
19 REDIRECT EXAMINATION
20 BY
21 MR. RIPPIE:
22 Q Mr. Mudra, I only have one question for you

1 referring to Staff Cross-Examination Exhibit No. 22.

2 Do you know whether or not that work
3 paper provided with the Part 285 filing reflects
4 Nicor Gas's current costs of short-term -- sorry, the
5 current costs of Nicor Gas's revolvers supporting the
6 short-term borrowing?

7 A I don't believe it does.

8 MR. RIPPIE: That's all I have.

9 Thank you.

10 JUDGE BRODSKY: Anything further?

11 MR. REICHART: No, your Honor.

12 JUDGE BRODSKY: Okay. Thank you, Mr. Mudra.

13 THE WITNESS: Thank you.

14 JUDGE BRODSKY: Looks like about 12:25.

15 We'll take lunch until 1:45 we'll
16 start again.

17 (Whereupon, further proceedings in
18 the above-entitled matter were
19 continued to May 19th, 2005,
20 at 1:45 p.m.)

21

22 (Change of Reporter)

1 JUDGE BRODSKY: Nicor, you may call your next
2 witness.

3 MS. BUGEL: Could I just pause for a procedural
4 issue regarding the schedule? This afternoon ELPC
5 would like to add 10 minutes of cross examination of
6 Witness Gorenz.

7 JUDGE BRODSKY: That's fine.

8 MS. BUGEL: And in addition tomorrow we would
9 like to add 30 minutes of cross examination of
10 Jensen.

11 JUDGE BRODSKY: Okay.

12 MS. BUGEL: Very good, thank you.

13 JUDGE ARIDAS: Did you say 30 minutes tomorrow?

14 MS. BUGEL: Yes, please.

15 JUDGE BRODSKY: So with that, Mr. Rippie, go
16 ahead.

17 MR. RIPPIE: Your Honor, before we put
18 Dr. Makholm on, I want to introduce two of my
19 colleagues who are here who will be examining
20 witnesses later today, Christopher Zibart,
21 Z-i-b-a-r-t and Cynthia Fonner, F-o-n-n-e-r, should
22 also be entered as having made -- should also be

1 shown as having entered appearances for Nicor Gas.

2 JUDGE BRODSKY: Okay, thank you.

3 MR. RIPPIE: The Company's next witness is
4 Dr. Jeff Makholm. He is in the hearing room and at
5 the witness station.

6 (Witness sworn.)

7 JEFF D. MAKHOLM,
8 called as a witness herein, having been first duly
9 sworn, was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY

12 MR. RIPPIE:

13 Q Would you please state and spell your full
14 name for the court reporter.

15 A My name is Jeff, middle initial D, Makholm,
16 M-a-k-h-o-l-m.

17 Q And by whom are you employed and in what
18 position?

19 A I'm a senior vice president at National
20 Economic Research Associates Incorporated.

21 Q Have you prepared surrebuttal testimony or
22 has surrebuttal system been prepared under your

1 direction and control for submission to the Illinois
2 Commerce Commission in this proceeding?

3 A Yes.

4 Q Has that surrebuttal testimony been
5 designated Nicor Gas Exhibit 37.0?

6 A Yes.

7 Q Is there an attachment or exhibit to that
8 testimony that has been designated 37.1?

9 A Yes.

10 Q If I were to ask you the same questions as
11 appear in Exhibit 37 and 37.1, will you give the same
12 answers today?

13 A Yes.

14 Q Has there been prepared by you or under
15 your direction and control, rebuttal testimony for
16 submission to the Illinois Commerce Commission in
17 this docket?

18 A Yes.

19 Q Is that rebuttal testimony designated
20 Exhibit 21.0?

21 A Yes.

22 Q Are there also attachments to that exhibit

1 numbered 21.1 through 21.11?

2 A Yes.

3 Q Subject to any updates or corrections
4 reflected in your surrebuttal testimony, if I were to
5 ask you the same questions that appear in the
6 rebuttal testimony would you give me the same
7 answers?

8 A Yes.

9 Q Has direct testimony been prepared by you
10 or under your direction and control for submission to
11 the Illinois Commerce Commission in this docket?

12 A Yes.

13 Q Is that testimony designated as Nicor
14 Exhibit 4.0?

15 A Yes.

16 Q Are there attachments to that direct
17 testimony that have been designated Exhibits 4.1
18 through 4.18?

19 A Yes.

20 Q Were there errata prepared to Exhibits 4.0
21 and 4.18?

22 A Yes.

1 MR. RIPPIE: Your Honor, those erratas were
2 circulated some time ago and are posted on the
3 e-docket system.

4 BY MR. RIPPIE:

5 Q Mr. Makholm, subject to the revisions or
6 updates made in your rebuttal or surrebuttal
7 testimony, were I to ask you the same questions and
8 answers that appear in your corrected direct
9 testimony, would you give the same answers today?

10 A Yes.

11 MR. RIPPIE: That's all the questions I have for
12 you, sir. Your Honor, subject to cross examination,
13 I would move into evidence Nicor Gas Exhibits 4.0
14 through 4.18, 21.0 through 21.11 and 37.0 and 37.1.

15 JUDGE BRODSKY: Any objection?

16 MR. FEELEY: No objection subject to cross by
17 staff.

18 JUDGE BRODSKY: Okay. Then those exhibits are
19 admitted subject to cross and you may proceed.

20

21

22

1 (Whereupon, Nicor Gas
2 Exhibits Nos. 4.0 through 4.18,
3 21.0 through 21.11 and 37.0 and
4 37.1 were admitted into evidence
5 as of this date as previously
6 marked on e-docket.)

7 CROSS EXAMINATION

8 BY

9 MR. FEELEY:

10 Q Good afternoon, Dr. Makholm, my name is
11 John Feeley and I'm one of the attorneys representing
12 staff.

13 A Nice to see you again, Mr. Feeley.

14 Q If I could direct your attention to your
15 surrebuttal testimony, Nicor Gas Exhibit 37.0.

16 A Yes.

17 Q And in particular Page 3 your Table 1.

18 A Yes.

19 Q Do you know the corporate credit ratings of
20 the eight companies listed in Table 1?

21 A I have seen them, but I don't know them off
22 of the top of my head, no.

1 Q Do you have in front of you a document, I'm
2 not going to mark it for identification, but it's a
3 series of ratings from Standards and Poors, multi
4 page document that I handed to you?

5 A Yes.

6 Q I would like to go through that. For
7 Avista Corp from Standards and Poors, could you
8 indicate what the issuer credit rating is as of April
9 19th, 2005 for Avista Corp?

10 MR. RIPPIE: Your Honor, I guess I'm -- I have a
11 question as to whether or not the purpose is to see
12 if this can refresh Dr. Makholm's recollection or
13 knowledge or whether we're going to have an issue
14 about essentially reading hearsay into the record.

15 MR. FEELEY: These figures that I'm going to go
16 over, these credit ratings go to the credibility of
17 this table that Dr. Makholm has presented in his
18 testimony. This witness relies upon Standard and
19 Poors reports in his work and it's proper to cross
20 examine him on what these credit ratings are for
21 these various companies.

22 MR. RIPPIE: That wasn't my objection, I'm not

1 making an objection to whether or not it's proper to
2 test his credibility. What I'm essentially objecting
3 to is being handed documents that I've seen for the
4 first time today that are Xeroxes of or screen prints
5 from source and having them read into the record as
6 if they are proofs of the fact.

7 This witness can obviously be -- you
8 can question him, as you know, with just about
9 anything, including hearsay. But I renew my
10 objection to simply reading these pieces of paper
11 into evidence as if they are proof of the credit
12 ratings that are shown in the documents.

13 MR. FEELEY: These documents are Dr. Makholm's
14 source documents. I can ask these questions subject
15 to check.

16 MR. RIPPIE: I'm not trying to make this more
17 than it is, but whether -- perhaps the thing to do is
18 to ask this witness whether these documents refresh
19 his recollection as to the credit ratings, and if
20 they do then there is no objection and we have no
21 problem. But I will object to simply reading in
22 documents that -- particularly ones that have not

1 been produced to us previously.

2 MR. FEELEY: I think I'm entitled to probe this
3 witness on the relevance of this table that he puts
4 in the testimony here. We think that this table is
5 not relevant, that none of these companies are
6 similar to Nicor Gas and we are attempting to do that
7 through our cross examination.

8 JUDGE BRODSKY: We are going to allow the
9 question. In terms of presenting the information, do
10 it in a way that allows for a relatively narrow
11 construction of the question. As far as your
12 concern, Mr. Rippie, it's obvious who is the witness
13 and who is the counsel that is asking the questions
14 and so we won't be confused as to which one is which.
15 So with that, Mr. Feeley, if you want to proceed.

16 BY MR. FEELEY:

17 Q Dr. Makholm, subject to check, would you
18 agree that the issuer credit rating for Avista Corp
19 as of April 19th, 2005 is double B plus?

20 A There are a number of ratings. This is
21 dated 17th of May 2005, I've never seen these
22 documents before, they are quite new and I haven't

1 looked at any ratings during this period of time, so
2 I would not have seen these documents before.

3 There are a number of -- there are
4 many ratings on these pages relating to particular
5 kinds of credit facilities or bonds and they differ
6 for Avista. And as I suspect they would differ for
7 any company because credit ratings, as you know, deal
8 with particular bonds and particular issuances so
9 they can be different for different issuances.

10 Q Dr. Makholm, do you see the Standards and
11 Poors sheet for Avista Corp at the top under current
12 ratings, it indicates issuer credit rating, do you
13 see that on the document?

14 A There is a line that says issuer credit
15 rating.

16 Q And as of April 19th, 2005, Avista Corp is
17 rated double B positive, correct?

18 A It has an issuer credit rating of double B
19 positive, but it also has --

20 Q Thank you, we'll move on to the next one.

21 A Excuse me, it also has senior security
22 credit ratings of triple B negative.

1 MR. FEELEY: My question asked for a simple yes
2 or no answer. If this witness wants to go on,
3 counsel can do redirect on him. This is going to be
4 very slow if we go on to these narrative answers.

5 MR. RIPPIE: I have a more fundamental
6 objection. I renew my hearsay objection. The
7 question really isn't directed to anything the
8 witness thinks about this document, nor is it being--
9 are they asking whether it affected his opinion in
10 any way. They are simply reading the document into
11 the record through the witness.

12 This is a hearsay document and it is
13 not proper to do that. They are entitled to test him
14 on it, to ask him what he thinks about it, whether it
15 changes his opinion, whether it would make the table
16 less meaningful, but this is simply here is a
17 document, read it into the record, go to the next
18 page and that's not proper.

19 JUDGE BRODSKY: All right. What we are going to
20 do is this, take a minute to review the document
21 since that's ongoing anyway, and then we're going to
22 take a step back, you can try your question again.

1 Again, keep it narrow so that you're not essentially
2 trying to go beyond the scope of permissible cross.

3 Are you ready to proceed at this
4 point, Dr. Makholm?

5 THE WITNESS: I thought you wanted the question
6 restated.

7 JUDGE BRODSKY: Go back to the original
8 question. BY MR. FEELEY:

9 Q Dr. Makholm, subject to check, is the
10 Standards and Poors issuer credit rating for Avista
11 Corp double B positive as of April 19th, 2005?

12 A You have pointed me to a line that says
13 issuer credit rating, IRCRI, don't know the
14 definition of that, but whatever it means there is a
15 number that you see to the right that says double B
16 plus.

17 Q Thank you. Go to the next Standards and
18 Poors report for Puget Sound Energy. Subject to
19 check, is the Standard and Poors issuer credit rating
20 for Puget Sound Energy, Inc., as of May 13th, 2005,
21 triple B negative?

22 MR. RIPPPIE: Your Honor, I renew my objection.

1 This is simply reading this document into the record.

2 MR. FEELEY: And I believe you've ruled on his
3 objection and denied it and we've moved on.

4 JUDGE BRODSKY: Where is this going at this
5 point? I mean, this began with you saying that it
6 was going to be tied into the table, so where are we
7 going with that?

8 MR. FEELEY: This witness in his surrebuttal
9 presents this table showing rates returned for
10 various companies that have been granted from
11 January 1 to May 6, 2005. In his testimony provides
12 no analysis or work papers showing the credit ratings
13 or how these companies are relative to Nicor. This
14 cross examination is showing that these companies are
15 more riskier than Nicor, that's what we're attempting
16 to get into the record here, it's simple. And
17 Nicor -- that's it.

18 MR. RIPPIE: If I may, I would not have made an
19 objection if those questions were put to
20 Dr. Makholm, but they weren't. What we're doing here
21 is reading this document in. I wouldn't object to a
22 question. I think he's already been asked whether he

1 knows what the credit ratings are for the companies
2 and he said he didn't. But I repeat, there may be an
3 appropriate goal for this, but it is not appropriate
4 to get there by taking hearsay documents and reading
5 them into the record, rote.

6 JUDGE ARIDAS: Mr. Feeley, is it your intention
7 to go through the entire document for the same line
8 of questioning for each company?

9 MR. FEELEY: For each document I'm going to one
10 line, number one, one indication from the report for
11 all the companies that he lists on his Table 1.

12 JUDGE ARIDAS: So all the companies contained in
13 this document reflect companies in this table?

14 MR. FEELEY: His Table 1 lists about eight
15 companies. I have Standard and Poors reports for
16 eight companies. I'm going to ask him what is the
17 issuer credit rating for those eight companies.

18 JUDGE ARIDAS: Since the witness has these
19 companies submitted in this table with his testimony,
20 I believe the line of questioning is proper, so you
21 may proceed. Narrowly tailored like Judge Brodsky
22 said, though.

1 MR. FEELEY: Thank you.

2 BY MR. FEELEY:

3 Q I don't believe I got an answer to Puget
4 Sound, so let's start there. Dr. Makholm, directing
5 your attention to the Standards and Poors for Puget
6 Sound Energy, May 13th, 2005 is triple B negative for
7 Puget Sound Energy, Inc.?

8 A Yes.

9 Q Next company in your table, National Fields
10 Gas Company, is it correct that the Standard and
11 Poors issuer credit rating for National Fields Gas
12 Company on December 13th, 2002 was triple B positive?

13 A Well, technically triple B positive, slash,
14 stable, slash, A, slash, 2, but we would agree.

15 Q So you agree that it's triple B positive,
16 slash, stable, slash, A negative 2?

17 A That's A, dash, 2, that's what it says.

18 Q Correct.

19 A And for the previous, I should be clear,
20 it's triple B negative, slash, stable, slash, A,
21 dash, 3 and the first is double B positive, slash,
22 stable, slash, B, dash, 2.

1 Q Thank you for that clarification. Next
2 company in your table is Semco Energy, Inc. Is it
3 correct that the Standard and Poors issuer credit
4 rating at November 10, 2004 is double B negative,
5 slash, stable, correct?

6 A Slash negative, yes.

7 Q Slash negative. Is that negative? Well,
8 we'll move on.

9 A I don't know, I've never seen this before.

10 Q The next company in your table, Vectrin
11 Utilities Holding, Inc. Is it correct that the
12 Standards and Poors issuer credit rating as of
13 January 26th, 2005 is A negative, slash, stable,
14 slash, A, dash, 2?

15 A Yes.

16 Q Next company, Atlanta Gas Light Company.
17 Is it correct that the Standards and Poors issuer
18 credit rating as of December 8, 2004 is A negative
19 negative, slash, negative?

20 A It's A negative, slash, negative, slash,
21 dash

22 Q Thank you. Next company, Michigan

1 Consolidated Gas Company. Is it correct that the
2 Standards and Poors issuer credit rating as of
3 December 1, 2004 is triple B, slash, stable, slash,
4 A, dash, 2?

5 A Yes.

6 Q Finally, with respect to Aquilla, Inc., is
7 it correct that the Standard and Poors issuer credit
8 rating as of April 19, 2005 is B negative, slash,
9 negative, slash, B, dash, 3?

10 A Yes.

11 Q And then Dr. Makholm, with respect to your
12 Table 1 again, do you know the capital structure
13 adopted in each of those rate proceedings where you
14 put a rate of return figure there?

15 A It's not part of my table. I have seen
16 them, but I don't know them sitting here.

17 Q So in your testimony you didn't provide
18 what the capital structure was for those companies?

19 A No.

20 Q Dr. Makholm, do you agree that credit
21 ratings of triple B negative or better are considered
22 development grade ratings and credit ratings below

1 triple B negative are considered speculative ratings?

2 A Generally that's correct, triple B negative
3 or greater allows a wider market for certain specific
4 credit instruments.

5 Q Are gas distribution companies typically
6 riskier or less risky than the overall market?

7 A That doesn't pertain particularly to credit
8 ratings, now we are talking about the companies
9 involved. When you are talking about the companies
10 involved that's a different issue than credit
11 ratings. You switched.

12 Q Are gas distribution companies typically
13 riskier or less risky than the overall market?

14 A In terms of the risk that brings me here to
15 talk about the cost of equity is separate from this
16 stuff. The market generally considers that
17 utilities, by virtue of being regulated, are less
18 exposed to business cycles and other things that can
19 affect unregulated companies or the universe of
20 businesses at large. And hence for that reason are
21 considered less risky.

22 Q Do you agree that according to CAP-M the

1 Beta for the overall market equals 1?

2 A Well, that's an assumption of the CAP-M.
3 By definition the Beta for the market is set to be
4 equal to 1. That's a definitional issue, it's not an
5 empirical issue.

6 Q And does a Beta of less than 1 indicate
7 less risk than the overall market?

8 A Mr. Feeley, risk is a four letter word,
9 it's capable of being misunderstood. The risk that
10 you're talking about now with respect to CAP-M is
11 risk having something to do with equity and the cost
12 of equity. It has nothing to do with credit risk or
13 bond ratings and so forth. And in that context the
14 answer to your question, a lower Beta should bespeak
15 a company that has less volatility in its stock
16 price, vis a vie the market, and is then considered,
17 all else equal, to be less risky.

18 Q If I could direct your attention to Page 7
19 of your Exhibit 37. In particular another table of
20 yours, Table No. 2. Do you have that in front of
21 you?

22 A Yes.

1 Q In your table in that second column you
2 have description of non-regulated operations. Do you
3 see that?

4 A Yes.

5 Q And the columns --

6 A Those are non-regulated operations for four
7 companies listed there. And those four companies are
8 the companies that are there because they now fail
9 Mr. McNally's original criteria that's why the
10 companies are there, correct.

11 Q I think you understand what the table is.
12 With respect to the -- what percentage of operations
13 do the non-utility operations that you list in Table
14 2 represent for each company? Do you understand my
15 question?

16 A Is your question, for each of these four
17 companies, AGL, ACLEE, Peoples and South Jersey, what
18 proportion of the revenues come from unregulated
19 activities that include these that I've listed?

20 Q Yeah, we can take them one at a time. For
21 AGL Resources, what percentage of operations do the
22 non-regulated operations of AGL represent?

1 A Well, that's in my testimony. You'll find
2 that in my rebuttal testimony, not in my surrebuttal
3 testimony. If you go to Exhibit 21, you'll see those
4 numbers on Page 6 and 7 of Exhibit 21. The end of
5 2004 AGL had 61 percent regulated, meaning 39 percent
6 unregulated operations. ACLEE -- these are the four
7 companies in that table, ACLEE had 69 percent
8 regulated or 31 percent unregulated. Peoples Energy
9 had 66 percent regulated or 33 percent unregulated.
10 And South Jersey Industries had 61 percent regulated
11 or 39 percent unregulated.

12 Q So in your testimony -- in your table you
13 break down those non-regulated operations say, for
14 example, AGL Resources you indicate
15 telecommunications, operating a propane air facility,
16 operating a storage hub in Louisiana and engaging in
17 asset optimization transportation and storage. Do
18 you know what percentage of operations those
19 non-regulated operations make up for the company?

20 A Well, breaking down the unregulated
21 operations is not what that table does. That table
22 is merely --

1 Q I asked do you know. Do you know what
2 percentage of operations telecommunications makes up
3 for AGL Resources?

4 A I know the total, but this table provides a
5 description of some of those, it's not exhaustive,
6 it's not a break down, it's just a description of
7 some of the unregulated activities that sum to the
8 percentages that I just gave you.

9 Q But for ACLEE, Peoples and South Jersey, do
10 you know the percentage of the break downs that you
11 provide for non-regulated operations?

12 A Well, they're not break down, it's just a
13 description of some of the unregulated activities. I
14 did, I think, four or five or three for each. It's
15 not a break down and it's not an exhaustive list.
16 It's just an example for each of the companies of the
17 types of unregulated businesses that they're involved
18 in. It's not designed to be exhaustive and it's not
19 a break down.

20 Q Do you agree that the earnings retention
21 ratio equals 1 minus the dividend payout ratio?

22 A As a conceptual matter? Yes.

1 Q Do you agree that the dividend payout ratio
2 equals dividends per share divided by earnings per
3 share?

4 A That is DPS divided by EPS. As a
5 conceptual issue, yes.

6 Q I direct your attention to your
7 Exhibit 21.5. Do you have that in front of you?

8 A Yes.

9 Q Looking at the columns from left to right,
10 beginning with the second column, according to
11 Footnote 1, is it correct that R equals the estimated
12 return on common equity for 2009 through -- I'm
13 sorry, strike that.

14 Is it correct that R equals the
15 estimated return on common equity from 2007 through
16 2009?

17 A Yes, that's in Note 1.

18 Q And also Note 1, is it correct that D
19 subscript E, equals the estimated dividend per share
20 for 2007 through 2009?

21 A Yes, that's Footnote 2.

22 Q And is it correct that D subscript E equals

1 the estimated book value per share for 2007 through
2 2009?

3 A Pardon me, which column are you in now?

4 Q D subscript E, that would be the third or
5 fourth column.

6 A The third column of numbers, let's say.
7 Yes.

8 Q And then direct your attention to Page 14
9 of your Exhibit 21, in particular Lines 368 to 369.

10 A Yes.

11 Q Your testimony there you state the
12 following: I do, however, use a factor to transform
13 the end of year 2007 through 2009 projected book
14 values from value line to an average mid year book
15 value which I label as R subscript AV?

16 A Right.

17 Q For clarification, is R subscript AV a book
18 value or a return?

19 A We can clear it up this way, and I think we
20 can cut to the quick on this, if you'll let me say
21 the following: We're talking about the BR plus SV
22 growth rate and in particular the B times R part. B

1 times R. Now, that formula that we went through in
2 21.5 has a purpose and the purpose --

3 MR. FEELEY: I'm sorry, Judge Brodsky and
4 Aridas, I asked a very simple question.

5 THE WITNESS: We'll do it your way, fair
6 enough. BY MR. FEELEY:

7 Q Is R subscript AV a book value or a return?

8 A R subscript AV is a return which includes a
9 factor to bring the B times R to a mid year
10 normalized value. If you'll see R_{AV} has two things
11 in it, if you look in the footnotes, it has a return
12 and it has an adjustment factor.

13 Q And is that a return on average book value
14 for 2007 through 2009?

15 A Yes.

16 Q So looking again at your testimony there at
17 368 -- Lines 368 to 369 of your Exhibit 21, would it
18 be more accurate for your testimony to state that you
19 used a factor to transform the return on end of year
20 2007 through 2009 projected book values from value
21 line to a return on average mid year book value which
22 you label as R_{AV} ; is that correct, that would be more

1 accurate?

2 A No. Because B times R are multiplied
3 together, it doesn't matter where you put the factor.
4 You can attach it to B or you can attach it to R, the
5 result is the same. And it just so happens that in
6 my table for reasons that this cross examination is
7 likely to get me to want to change, I attached it to
8 R. If I attached it to B, it wouldn't affect
9 anything at all since it's a multiply part of that
10 growth rate. That's why I said there were three
11 things a B, an R and an adjustment. I just happen to
12 attach the adjustment to the R instead of the B.

13 MR. FEELEY: Just one moment, please.

14 BY MR. FEELEY:

15 Q Direct your attention to your Exhibit 4.9.

16 A Yes.

17 Q Do you have that in front of you?

18 A I do.

19 Q Given your previous answer that R subscript
20 AV is a return on average book value for the period
21 2007 through 2009, should the last line on Page 103
22 of Exhibit 4.9 be corrected to state that R_{AV} equals

1 return on average equity for 2007 through 2009?

2 A That's a nice suggestion, but I would add
3 to it in order to be totally clear. I would say
4 return on equity adjusted for mid year -- the need to
5 use it to multiply by mid year book values. That
6 would be a more complete way to describe that that
7 would clear up this uncertainty.

8 Q Going back to Exhibit 21.5.

9 A Yes.

10 Q In particular Footnote 2. When you refer
11 to V01 and V00, you are referring to the book value
12 per share for 2003 and 2002 respectively, correct?

13 A Correct. It says it right in there in the
14 line.

15 Q And --

16 A And once again, that bracketed element in
17 Footnote 2 is that adjustment factor I'm speaking
18 about to take year end values and convert them to mid
19 year values, which is what is required here.

20 Q Direct your attention to Footnote 3 and the
21 formula in that. And in particular the term R_{AV}
22 times V subscript E, does that term represent a

1 calculation of the 2007 through 2009 earnings per
2 share?

3 A Yes, as adjusted for mid year book values
4 because it uses R_{AV} .

5 Q Again on Exhibit 21.5, and actually
6 Exhibit 21.6. The source data cited for those
7 exhibits are the December 17th, 2004 Value Line
8 reports; is that correct?

9 A Yes, Issue 3.

10 Q And in the second column from the left on
11 Exhibit 21.5, you present Value Line's estimate for
12 returns on common equity for 2007 through 2009?

13 A Yes.

14 Q Before we started I gave you and counsel a
15 copy of some Value Line reports. Could you take a
16 look at those reports. The first one is Cascade
17 National Gas?

18 A Natural gas, yeah.

19 Q These documents that I handed to you are
20 copies of your source reports, correct?

21 A Yes.

22 Q For Cascade Natural Gas, would you please

1 read the corresponding return on common equity for
2 2003 for that company?

3 A 2003.

4 Q Return on common equity.

5 A The return on common equity is 8.6 achieved
6 in 2003.

7 Q And for Key Span Corp, could you read the
8 2003 return on common equity?

9 A Well, you're not referring to these -- I'm
10 sorry, you predicated this on this column, you're not
11 looking for these numbers here, you're looking for
12 different numbers.

13 Q I'm looking at your sores reports that I
14 gave you a copy of before.

15 A Can I put 21.5 away as I check these
16 numbers?

17 Q Yes.

18 A For Key Span the number is 13.3.

19 Q For return on?

20 A Return on common equity in 2002.

21 Q Actually I asked for 2003.

22 A 11.4.

1 Q And what is the figure for Nicor, Inc.?
2 A 2003?
3 Q Yes.
4 A Achieved return 12.3.
5 Q And what is the figure for Northwest
6 Natural Gas?
7 A 9.0.
8 Q And what is the figure for Piedmont
9 Natural?
10 A 11.8, I think.
11 Q 11.8?
12 A It looks like 11.8, it could be 11.9.
13 Q Subject to check is it 11.8?
14 A And our Southwest Gas it's 6.1.
15 Q I'm sorry, Southwest Gas 2003 figure return
16 on common equity is what?
17 A 6.1.
18 MR. FEELEY: Just one moment.
19 Thank you, Dr. Makholm, that's all I
20 have.
21 THE WITNESS: Thank you, Mr. Feeley.
22 EXAMINATION

1 BY

2 JUDGE BRODSKY:

3 Q We spoke earlier that the BR with an
4 adjustment part of the equation was not affected
5 whether you adjusted the R to B.

6 A Correct.

7 Q Essentially the reason for that is the
8 three factors are multiplied together?

9 A Right, it's the community property
10 multiplication.

11 JUDGE BRODSKY: Redirection?

12 MR. RIPPPIE: None, thank you.

13 JUDGE BRODSKY: Thank you, Mr. Makholm.

14 (Witness excused.)

15 MR. RIPPPIE: If we could have 5 minutes, your
16 Honor, with respect to getting the next witness set
17 up. Both Mr. D'Alessandro and Mr. Gorenz are in the
18 hearing room and I know Mr. Kelter had examination
19 for both of them and we had had some off-the-record
20 discussions earlier about what order they were going
21 to go in. And if possible, it appears that it would
22 make more logical sense to begin with Mr.

1 D'Alessandro, but I certainly don't want to do
2 anything that would surprise any of the parties.

3 JUDGE BRODSKY: Do we need to go off the record
4 for a few moments?

5 MR. RIPPIE: Just a few, thank you.

6 (Break taken.)

7 JUDGE ARIDAS: Mr. Heintz, would you raise your
8 right hand, please.

9 (Witness sworn.)

10 ALAN HEINTZ,
11 called as a witness herein, having been first duly
12 sworn, was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY

15 MR. RATHNASWAMY:

16 Q Good afternoon, you Honors, my name is John
17 RATHNASWAMY, I don't believe my appearance today has
18 been entered thus far. I'm an attorney for the
19 Northern Illinois Gas Company.

20 Please state your name for the record.

21 A Alan Charles Heintz.

22 Q Please state your business address.

1 A 1155 15th Street Northwest, Washington, DC.

2 Q By whom are you employed and in what
3 capacity?

4 A I am employed by Brown, Williams, Morehead
5 and Quinn as the vice president.

6 Q Mr. Heintz, do you have in front of you
7 copies of your direct, rebuttal and surrebuttal
8 testimony that has been filed on the Commission's
9 e-docket system?

10 A Yes, I do. I have before me Nicor Gas
11 Exhibits Nos. 14, 31 and 42.

12 Q Were these testimonies prepared by you or
13 under your direction?

14 A Yes, sir.

15 Q Were they prepared for submission to the
16 Illinois Commerce Commission in this proceeding?

17 A Yes, they were.

18 Q If I could direct your attention first
19 please to Nicor Gas Exhibit 42.0?

20 A Yes, sir.

21 Q If I were to ask you the questions that
22 appear in Nicor Gas Exhibit No. 42.0, would you give

1 the answers as stated therein including the exhibits
2 attached thereto?

3 A Yes, I would with a minor exception that on
4 the exhibits which are Nicor Surrebuttal Schedule F
5 and that's 42.1 and 42.3, I would add in thousands in
6 there under 2005 test year.

7 Q Mr. Heintz, if I could direct your
8 attention to Nicor Gas Exhibit 31.

9 A Yes.

10 Q Subject to any revisions and updates that
11 may appear in your surrebuttal testimony, if I were
12 to ask you the questions that appear in Nicor Gas
13 Exhibit No. 31.0 would you give the answers that are
14 stated therein, including the attachments thereto?

15 A Yes, sir, with the exception that on Nicor
16 Gas Exhibit No. 31.2, which is Nicor Gas Rebuttal
17 Schedule F, I again would add in thousands under 2005
18 test year.

19 Q Finally, if I could direct your attention
20 to Nicor Gas Exhibit No. 14.0.

21 A Yes, sir.

22 Q Subject to any revisions and updates that

1 may appear in your rebuttal and surrebuttal
2 testimonies, if I were to ask you the questions that
3 appear in Nicor Gas Exhibit 14.0 would you give the
4 answers appearing therein including the attachments
5 thereto?

6 A Yes, sir with the exception, again, of
7 Nicor Gas Exhibit 14.1 Schedule F, Page 1 of 2.
8 Under the title 2005 test year, I would add in
9 thousands.

10 MR. RATHNASWAMY: Your Honor, at this time I
11 would move the admission into evidence of Nicor Gas
12 Exhibit No. 14.0, including its attachment 14.1.
13 Nicor Gas Exhibit No. 31.0 including its Attachments
14 31.1 through 31.3. And finally, Nicor Gas Exhibit
15 No. 42.0 including its attachments 42.1 through 42.3.

16 JUDGE ARIDAS: Are there any objections to the
17 aforementioned exhibits be admitted into the record?
18 Hearing none they are admitted.

19 (Whereupon, Nicor Gas
20 Exhibits Nos. 14.0, 31.0 and 42.0
21 were admitted into evidence as
22 of this date as previously marked

1 on e-docket.)

2 JUDGE ARIDAS: Mr. Robertson, do you want to
3 proceed with cross.

4 CROSS EXAMINATION

5 BY

6 MR. ROBERTSON:

7 Q Good afternoon, Mr. Heintz, my name is Eric
8 Robertson and I represent the Illinois Industrial
9 Energy Consumers and I would like to ask you
10 initially some questions about the average and peak
11 method.

12 Do I understand your testimony in this
13 proceeding correctly that you believe that the
14 coincident peak is a more accurate allocation method
15 than the average and peak method?

16 A First of all, it's a pleasure to see you
17 again. Second of all, yes. I do believe that the
18 coincident peak method is superior for various
19 reasons.

20 First of all, the average peak method
21 as referred to in the NARUC, which is the National
22 Association of Regulatory Commissioners gas rate

1 handbook calls it a compromise. It is simply that,
2 it is a compromise. The degree to which the load
3 factor which is used to determine how much is put on
4 volume and how much is put on demand is used as a
5 proxy or a compromise between high load factor and
6 low load factor customers.

7 The load factor may coincidentally
8 relate to some benefits that are attributable to the
9 low load factor customers, but it is simply that, it
10 is a coincident, it is a compromise. The system is
11 built for coincident peak, it is built to serve a
12 peak day. Yes, there is excess capacity during other
13 periods of year, but cost causation follows why did
14 you build it. And if you are going to follow costs
15 and their causation, which is imbedded cost or cost
16 of service should follow, you would use the
17 coincident peak method.

18 Q Now, am I also correct that the Company in
19 this case has indicated that it would accept the use
20 of the A and P method for the purpose of this case?

21 A Yes.

22 Q Now, is it your understanding that is in

1 part because the Commission favored the use of the A
2 and P method in the last case?

3 A Actually, I don't know the exact reasoning
4 behind the Company's decision.

5 Q Do you know whether or not the Commission
6 favored the use of the MDM study in the last case?

7 A Yes, sir, they did.

8 Q Now, could you please turn to Page 8 of
9 Nicor Exhibit 42, your surrebuttal testimony?

10 A I am there, sir.

11 Q Now, at Lines 145 and 146, you discuss the
12 allocators of the average and peak; is that correct?

13 A I discuss the volumetric portion or the
14 average at 45 and 46 being 23.1 percent.

15 Q Now, would you agree that the average in
16 peak is a weighted average of two different
17 allocators, the first being the design day or peak
18 allocator and the second being an average day
19 allocator?

20 A Yes, sir, it is a composite.

21 Q And would you agree that the weight that is
22 given to the average day allocator in the A and P

1 method is the load factor of the system?

2 A The weight given to the volumetric portion
3 is the load factor of the system.

4 Q And so the weight given to the design day
5 allocator in the A and P method is 1 minus the load
6 factor; is that correct?

7 A To the demand portion, yes.

8 Q So if the system load factor was
9 30 percent, then the average day allocator or the
10 volumetric allocator would be 30 percent and the
11 demand portion of the allocator would be 70 percent?

12 A That is correct.

13 Q Now, the average day allocator is just the
14 annual volumes of each class divided by 365 days; is
15 that correct?

16 A I'm sorry could you restate that question?

17 Q Is -- the average day allocator or
18 volumetric allocator is just the annual volumes of
19 each customer class divided by 365 days; is that
20 correct?

21 A The 23.1 percent is not.

22 Q And how is the 23.1 percent calculated

1 here?

2 A It is the total volume divided by 365
3 divided by the peak day volume. Or rephrased,
4 average daily volume divided by peak day volume.

5 Q Now, the method of calculating these
6 factors that we have just discussed, is that how you
7 have applied them in this case?

8 A Yes, sir, I have.

9 Q And is it true -- is that true with regard
10 to both your rebuttal and surrebuttal testimony?

11 A Yes, sir.

12 Q Now, in your application of the method in
13 this case, have you consistently used the same design
14 day demands in your direct rebuttal and surrebuttal
15 testimony?

16 A Yes, I have. I have used the total demand
17 for transportation, the firm demand for distribution
18 other than mains and the MDM study for mains,
19 distribution mains.

20 Q Now, could you turn to your rebuttal
21 testimony, Nicor Exhibit 31. And I'm going to refer
22 you to Page 8 and Lines 164 through 170. Now, there

1 you discuss a way that the Commission could apply the
2 A and P method to main costs, and yet still preserve
3 as much of the benefit of the MDM study as an
4 accurate assignor of main costs to the customer
5 classes. Is that the correct characterization of
6 your testimony in this location?

7 A Yes, sir.

8 Q Now, do you agree that the allocation of
9 the costs in the MDM study is based on the peak day
10 flow of gas through the mains?

11 A The MDM study uses the peak day to
12 determine the peak day flows, what portion -- how
13 much of each sized main is used by each customer.

14 Q Now, do you agree that the allocation of
15 costs in the MDM study is not based on the number of
16 connections to smaller mains?

17 A When you say number of connections,
18 customer service?

19 Q Well, for instance, the number of customers
20 connected to the 2-inch main.

21 A No, it's the demand.

22 Q So you agree that the study is not based on

1 the number of connections to smaller sized mains?

2 A That is correct.

3 Q So if that is the case, if a customer class
4 such as Rate 77, for example, does not use 2-inch
5 mains on a peak day or the design day, would you
6 agree that it follows that the class would not use
7 2-inch mains on an average day?

8 A Yes, sir.

9 Q Now, your testimony at Lines 164 to 170,
10 would -- you discuss the use of the A and P method in
11 a way that would preserve as much of the accuracy of
12 the MDM method as possible. Do you mean that the
13 average day part of the formula should also reflect
14 the fact that not all classes use the smaller
15 diameter mains with the same intensity?

16 A No, I believe that the volume would be
17 based on their actual volume and the 23.1 percent of
18 the MDM would be associated with the volume.

19 Q So would you agree, then, in determining to
20 preserve as much of the accuracy of the MDM formula
21 as possible, that the demand portion should reflect
22 the fact that not all classes use the smaller

1 diameter mains to the same intensity?

2 A That is correct.

3 Q Now, if you turn to Pages 14 and 15 of your
4 rebuttal -- I'm sorry, it's just Page 14, Line 297.
5 There you ask yourself the question, do you have an
6 exhibit that shows the affect of Nicor Gas proposed
7 revisions on staff's e-costs; is that correct?

8 A Yes, sir.

9 Q And e-costs there stands for embedded cost
10 of service study; is that correct?

11 A Yes.

12 Q And you answer that question in the
13 affirmative; is that correct?

14 A Yes.

15 Q Now, is the revision that you reference to
16 staff's e-costs shown on Nicor Gas Exhibit 31.2,
17 which is your revised Schedule F from the staff's
18 e-costs study?

19 A Yes.

20 Q And was this version of the study prepared
21 under your supervision and at your direction?

22 A Yes, it was.

1 Q And did you uncover any mathematical errors
2 or miscalculations in Nicor Gas Exhibit 31.2?

3 A I don't recall finding any in 31.2.

4 Q Does the study that's summarized in
5 Exhibit 31.2 utilize the A and P method for
6 functionalizing all T and D costs, excluding mains?

7 A Yes, sir.

8 Q Does the study summarized in Exhibit 31.2
9 allocate main costs as the Commission authorized in
10 the last case?

11 A It's slightly different because the load
12 factor is different than the last case, it was a
13 30/70 split. This case it is a 23.1/76.9 percent
14 split.

15 Q But other than that, is it essentially the
16 same approach?

17 A Yes, sir.

18 Q Now, is it correct that at the top of Page
19 15 of your rebuttal testimony, Nicor Exhibit
20 No. 31, you recommend the Commission use Exhibit 31.2
21 as the basis for interclass revenue allocation in
22 this case?

1 A Yes. If the Commission were to determine
2 the A and P method's correct, yes.

3 Q Now, would you turn to Page 5 of your
4 surrebuttal testimony, which is Nicor Exhibit 42.
5 I'm looking at question and answer that begins on
6 Line 96. You discuss a revised version of staff
7 witness Luth's cost of service study; is that
8 correct?

9 A Yes.

10 Q And is this revised version of Mr. Luth's
11 study included as Nicor Exhibit 42.3 to your
12 surrebuttal testimony?

13 A Yes, it is.

14 Q Now, is the study in 42.3 different from
15 the study that you and I just discussed as
16 represented by Nicor Exhibit 31.2?

17 A It is a different study that has different
18 results, yes.

19 Q And does this study, Exhibit 42.3, an
20 attempt to correct certain errors in Mr. Luth's
21 study?

22 A This 42.3 does attempt to correct one error

1 in Mr. Luth's study.

2 Q Now, just out of curiosity, in line 100,
3 which is probably violating one of my rules, but when
4 you reference Dr. Rosenberg there, you were not
5 attempting to suggest that Dr. Rosenberg was in
6 agreement with Mr. Luth's study or this revised
7 study?

8 A No, sir. I believe in crediting someone
9 who bring something to your attention.

10 Q Now, if there were -- if there might have
11 been other errors in Mr. Luth's study that were not
12 corrected in this study, I guess it's safe to say
13 they would still be reflected in Exhibit 42.3,
14 Mr. Luth's errors, to the extent they existed?

15 A Yes, sir.

16 Q Now, would you agree that none of the
17 embedded cost of service studies that you presented
18 in this case includes net hub revenues?

19 A Yes, sir.

20 Q Would you agree that or do you know whether
21 or not any of the embedded cost of service studies
22 presented by the staff, Mr. Luth in this case,

1 include net hub revenues?

2 A I don't recall.

3 Q Now, assuming the Commission decided to
4 include net hub revenues in base rates as an offset
5 to costs, would you agree that the cost of service
6 study ultimately used by the Commission for revenue
7 allocation should include those hub revenues?

8 A If the Commission were to so decide, yes.

9 Q Are you aware that Dr. Rosenberg has made a
10 recommendation to allocate all storage costs to sales
11 classes in this case?

12 A Yes, I am.

13 Q And he has proposed that no revenues be
14 allocated -- I'm sorry, no storage cost be allocated
15 to transportation customers, is that correct, in the
16 context of the embedded cost of service study?

17 A Yes, it is.

18 Q Now, at Page 12 of your rebuttal,
19 Exhibit 31, Nicor Exhibit 31, you respond to
20 Dr. Rosenberg's suggestion; is that correct?

21 A Yes.

22 Q Now, as I understand your testimony there,

1 you were suggesting that in your opinion if
2 Dr. Rosenberg's suggestion were followed, the
3 revenues, and the revenues from SBS charges were
4 credited to the sales classes, the end result would
5 be the same as in your treatment of storage costs; is
6 that correct?

7 A Well, it would have to be done correctly.
8 In other words, currently today the costs that are
9 allocated to the transportation customers for
10 storage, they do not pay if they do not take storage.
11 So if \$100, just to keep a round number, is allocated
12 to transportation and nobody in the transportation
13 classes takes storage, then no one in the
14 transportation classes pays the 100. Whether it's
15 fully subscribed, if all of the storage services are
16 fully subscribed, or not. However, all of the
17 transportation customers do have a right to demand
18 storage and as a result that is why I'm allocating.

19 Q So are you suggesting, just make sure I
20 understand what you're saying, is that as long as
21 transportation customers have the right to demand
22 storage, then your statement here would be correct?

1 A What I'm suggesting is that if you are
2 going to take a revenue credit treatment and not
3 allocate to them, you would also have to remove from
4 the tariff their right to demand storage. If they
5 have a right to demand the storage, Nicor Gas has a
6 responsibility to have enough storage for them as a
7 class.

8 And as a result, the correct --
9 because the tariff currently requires Nicor Gas to
10 stand by with enough storage for the class, that we
11 need to allocate those costs. However, if an
12 individual transportation customer desires no storage
13 and does not sign up for storage and pay the charge,
14 they will not be paying any of the storage costs.
15 That's how it currently works. If you are going to
16 treat it as revenue credit, you are treating it like
17 a non-firm storage, as available.

18 If it is the intention of a party to
19 have as available storage, revenue crediting would be
20 correct. But when somebody has the right to demand,
21 I want it, there is a cost incurred. And as a
22 result, they should be allocated the costs, through

1 rate design, through the SBS charge and I believe
2 it's Rider 5. A transportation customer who does not
3 take storage will not have incurred any of the costs.
4 And as a result I see no reason to change.

5 Q Now, are you aware that Nicor is proposing
6 to change certain conditions on storage in this
7 proceeding?

8 A Yes, my understanding is there is a
9 reduction in the amount of storage.

10 Q Is it possible that if the Commission were
11 to accept these proposals, that some of the
12 transportation customers may opt for less storage
13 than they had in the past?

14 A Well, it's fully subscribed as 26 days
15 currently and the proposal is to drop it to 23. So I
16 would assume it would still be fully subscribed. But
17 individual customers, I believe it's annually, may
18 change their nominations in terms of the amount of
19 storage. And if there is excess storage, others in
20 the class can have more than their right.

21 MR. ROBERTSON: Can I have one second to get a
22 piece of testimony from the back, please.

1 BY MR. ROBERTSON:

2 Q Would you accept, subject to check, that in
3 Nicor Exhibit 8.0 on Page 7, Lines 154 to 156,
4 Mr. Bartlett states, historically, however, many of
5 the companies end use transportation customers do not
6 either subscribe to or use their full storage rights
7 on a regular basis?

8 A I don't know what subject to check means in
9 this proceeding. If it's part of the record, it's
10 part of the record.

11 Q Would that suggest to you that storage is
12 not fully subscribed?

13 A That's talking about individual customers,
14 it wasn't talking about the customer class as a
15 whole.

16 Q Do you know that he was talking about
17 individual customers as opposed to transportation
18 customers as a class?

19 A If you would reread it?

20 MR. RIPPKE: What's the line?

21 MR. ROBERTSON: 154 to 155, 156.

22 THE WITNESS: I have no independent knowledge

1 other than the words that are written here. If you
2 would like me to opine on them as I see them, I'll
3 defer to counsel.

4 BY MR. ROBERTSON:

5 Q No, I'll ask Mr. Bartlett.

6 A I will point out I believe --

7 Q I haven't asked any question. Would you
8 agree that under Dr. Rosenberg's suggested allocation
9 of storage with a credit of SBS revenues to sales
10 classes, the result of the cost study would depend
11 upon the ultimate level of the SBS charge that has --
12 that was approved in this case?

13 A Could you repeat that, please.

14 Q Would you agree that under Dr. Rosenberg's
15 suggested allocation of storage, with a credit of SBS
16 revenues to the sales classes, the result of the cost
17 of service study would depend upon the ultimate level
18 of the SBS charge that was approved in this case?

19 A It would depend on how the credit was done
20 and audited.

21 Q How would the credit have to be done to
22 accomplish that?

1 A It would have to be through base rates.
2 And it would have to be apportioned correctly to the
3 sales customers -- customer classes in proportion to
4 the amount that was reallocated from the
5 transportation customers in order to give the same
6 result. The net affect being no additional --
7 because it's fully subscribed there would be no net
8 additional costs attributable to any one rate class.

9 Q Would you agree that would depend on
10 whether it was in fact fully subscribed?

11 A Yes.

12 MR. ROBERTSON: That's all I have, thank you.

13 JUDGE ARIDAS: Any further cross, staff? That's
14 it. Redirect?

15 MR. RATHNASWAMY: No redirect, your Honor.

16 JUDGE ARIDAS: The witness is excused.

17 (Witness excused.)

18 JUDGE ARIDAS: Why don't we take a 15-minute
19 break.

20 (Break taken.)

21 MR KELTER: My name is Robert Kelter, I would
22 like to make an appearance on behalf of the Citizens

1 Utility Board, 208 South LaSalle, Suite 1760, Chicago
2 60604.

3 MR. ZIBART: And again appearing on behalf of
4 Northern Illinois Gas Company.

5 JUDGE ARIDAS: Mr. D'Alessandro, please raise
6 your right hand.

7 (Witness sworn.)

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13 ROCCO D'ALESSANDRO,
14 called as a witness herein, having been first duly
15 sworn, was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY

18 MR. ZIBART:

19 Q Would you state and spell your name,
20 please, sir?

21 A Yes, Rocco D'Alessandro. First name is
22 R-o-c-c-o. Last name is D, apostrophe, capital

1 A-l-e-s-s-a-n-d-r-o.

2 Q And Mr. D'Alessandro, are you an employee
3 of Nicor Gas Company?

4 A Yes, I am.

5 Q What is your position at Nicor Gas?

6 A Senior vice president of operations.

7 Q Mr. D'Alessandro, has written direct
8 testimony been prepared by you or under your
9 direction and control for submission in Commission
10 Docket 04-0779?

11 A Yes, that is correct.

12 Q And do you have in front of you a document
13 that has been marked for identification Nicor Gas
14 Exhibit 5.0?

15 A Yes, that is correct.

16 Q And is that a true and correct copy of your
17 written direct testimony?

18 A Yes.

19 Q And is there attached to your testimony,
20 Nicor Gas Exhibit 5.1, is a copy of Schedule F4 to
21 Nicor Gas' Part 285 submission?

22 A Yes, that is correct.

1 Q And has written rebuttal testimony also
2 been prepared by you or under your direction and
3 control for submission in this docket?

4 A That is correct.

5 Q And do you have in front of you a document
6 that has been marked for identification, Nicor Gas
7 Exhibit 22.0?

8 A That is correct.

9 Q Is that a true and correct copy of your
10 written rebuttal testimony?

11 A Yes, it is.

12 Q Mr. D'Alessandro, do you have any changes
13 or corrections that need to be made to your testimony
14 before it's entered into evidence?

15 A No, I do not.

16 Q So if I were to ask you the questions set
17 forth in these documents marked Nicor Gas Company
18 Exhibit 24.0 and 22.0, would you give the same
19 answers set forth in those documents?

20 A Yes, I would.

21 Q And you intend these two documents to
22 comprise your sworn testimony in this docket?

1 A That is correct.

2 MR. ZIBART: Your Honors, I have no further
3 questions for Mr. D'Alessandro on direct and we move
4 the admission of Nicor Gas Exhibit 5.0 22.0 and 5.1,
5 subject to cross examination.

6 JUDGE ARIDAS: Are there any objections to the
7 aforementioned exhibits being admitted into the
8 record? Hearing none they are admitted.

9 (Whereupon, Nicor Gas
10 Exhibits Nos. 5.0, 5.1 and 22.0
11 were admitted into evidence as
12 previously marked on e-docket as
13 of this date.)

14 MR. ARIDAS: Mr. Kelter, please proceed with
15 cross.

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19 CROSS EXAMINATION

20 BY

21 MR. KELTER:

22 Q Mr. D'Alessandro, could you turn to Page 2

1 of your direct testimony, please. Looking at Line
2 28, you state the Company's test year operating
3 expenses are prudent and reasonable given the
4 services Nicor has provided to its customers and that
5 Nicor Gas has been and remains a very efficient gas
6 utility and our rate proposal reflects that fact.

7 Do you expect the Commission to take
8 into consideration the fact that you are a very
9 efficient gas utility in this proceeding?

10 A Yes, I do.

11 Q Do you believe that your customers perceive
12 Nicor Gas to be a very efficient utility?

13 A Yes, I do.

14 Q And do you believe that Nicor customers
15 rely on you to be an efficient utility?

16 A Yes, I do.

17 Q Turning to Page 12 at Line 244 you state,
18 The capital management team on which I serve
19 considers whether capital projects will cost
20 effectively enhance the safety and reliability of
21 customer service, correct?

22 A Yes, that is what it says.

1 Q Are you familiar with Comfort Guard?

2 MR. ZIBART: Your Honor, at this point, I would
3 like to express an objection. And Mr. Kelter was
4 good enough to let us know that he would be asking
5 Mr. D'Alessandro about the Gas Line Comfort Guard
6 area, which is the subject of our pending motion.
7 And the Company believes it is irrelevant to the
8 issues before the Commission in this docket. I would
9 also point out that it's beyond the scope of the
10 direct testimony and rebuttal testimony of
11 Mr. D'Alessandro.

12 MR. KELTER: Your Honor, I'll relate it to his
13 testimony, I'm just laying a foundation for my
14 questions.

15 JUDGE ARIDAS: We'll overrule the objection, but
16 be aware that this area is subject to a pending
17 motion, so just tread carefully.

18 THE WITNESS: Could you repeat your question,
19 please.

20 BY MR. KELTER:

21 Q Sure. Are you familiar with Comfort Guard?

22 A Yes, I am.

1 Q And you know what the program does in terms
2 of replacing connectors?

3 A I'm not sure if that's a -- yes, that might
4 be one part of the Gas Line Comfort Guard program.

5 Q Do you consider Comfort Guard a safety
6 program?

7 A Yes, I do.

8 Q In terms of your responsibility for safety
9 programs, do you know if Nicor considered replacing
10 the connectors that were at issue in the Comfort
11 Guard program as part of the utility program?

12 MR. ZIBART: I would ask that Mr. Kelter make
13 clear, since the Gas Line Comfort Guard is a service
14 provided by Nicor Services, which is an affiliate of
15 Nicor Gas, I would ask that he be clear on which
16 Nicor he's talking about when he asks that question.

17 JUDGE ARIDAS: Can you do that, Mr. Kelter?

18 BY MR. KELTER:

19 Q Yeah. Did Nicor Gas consider replacing the
20 connectors that are initiated by the Comfort Guard
21 program as a part of a utility program?

22 A I believe that is correct, that we have.

1 Q Before Comfort Guard was offered by Nicor
2 Services, do you know if Nicor Gas in fact did
3 service those connectors?

4 A I believe that is correct.

5 MR. KELTER: That's all the questions I have.

6 JUDGE ARIDAS: Any other cross? Judge Brodsky,
7 any questions?

8 JUDGE BRODSKY: No, thank you.

9 JUDGE ARIDAS: Redirect?

10 MR. RIPPPIE: Could we have just about
11 30 seconds?

12 MR. ZIBART: No redirect.

13 JUDGE ARIDAS: Thank you, Mr. D'Alessandro,
14 you're excused.

15 (Witness excused.)

16 JUDGE BRODSKY: You may call your next witness.

17 MR. RATHNASWAMY: Northern Illinois Gas Company
18 calls Mr. James Gorenz.

19 (Witness sworn.)

20

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3
4 JAMES GORENZ,
5 called as a witness herein, having been first duly
6 sworn, was examined and testified as follows:
7 DIRECT EXAMINATION
8 BY
9 MR. RATHNASWAMY:
10 Q Please state your name.
11 A James Gorenz.
12 A Please spell your last name.
13 A G-o-r-e-n-z.
14 Q What is your business address, sir?
15 A Nicor Gas Company, 1844 Fairy Road,
16 Naperville.
17 Q Who is your employer?
18 A Nicor Gas Company.
19 Q In what position are you employed?
20 A Manager of supply accounting.
21 Q Mr. Gorenz, did you prepare or have
22 prepared at your direction and under your supervision

1 direct, rebuttal and surrebuttal testimony that you
2 intended to be submitted to the Illinois Commerce
3 Commission in this matter?

4 A Yes, I did.

5 Q If I can direct your attention, please,
6 sir, to Nicor Gas Exhibit No. 41.0 and it's attached
7 Exhibit 41.1. If I were to ask you the questions
8 that appear in said surrebuttal testimony, would you
9 give the answers that appear therein including the
10 attachment thereto?

11 A I would with one minor correction. On Page
12 28 of 31, Line 607, instead of OO and M, change that
13 to depreciation.

14 Q Thank you. May I direct your attention to
15 the rebuttal testimony, Nicor Gas Exhibit 26B.0 and
16 its attached exhibits, 26B.1 through 26B.4.
17 Mr. Gorenz, if I were to ask you the questions that
18 appear in said testimony, would you give the answers
19 that appear therein including the attachments
20 thereto, subject to the corrections and revisions of
21 your surrebuttal testimony?

22 A Yes, I would.

1 Q Finally, Mr. Gorenz, if I could direct your
2 attention to your direct testimony, Nicor Gas
3 Exhibit 11B.0 and its attachment 11B.1. Subject to
4 any corrections and revisions in your rebuttal and
5 surrebuttal testimony, if I were to ask you the
6 questions that appear in your direction testimony
7 would you give the answers that appear therein and
8 the attachment thereto?

9 A Yes.

10 MR. RATHNASWAMY: Your Honors, I move the
11 admission of Nicor Gas Exhibit 11B.0 its attachment
12 11B.1, Nicor Gas Exhibit 26B.0 and attachments 26B.1
13 through 26B.4. And finally, Nicor Gas Exhibit 41.0
14 and its attachment 41.1.

15 JUDGE BRODSKY: Any objections? Hearing none
16 those will be admitted subject to cross.

17 (Whereupon, Nicor Gas
18 Exhibits Nos. 11B.0, 11B.1,
19 26B.0, 26B.1 through 26B.4, 41.0
20 and 41.1 were admitted into
21 evidence having been previously
22 marked on e-docket as

1 of this date.)

2 JUDGE BRODSKY: Who wishes to proceed?

3 MR. GORG: The attorney general's office, your
4 Honor.

5 JUDGE BRODSKY: Very well, proceed.

6 CROSS EXAMINATION

7 BY

8 MR. GORG:

9 Q Mr. Gorenz, my name is Risi Gorg on behalf
10 of the People of the State of Illinois. Please refer
11 to Page 38 of your rebuttal testimony, Nicor Gas
12 Exhibit 26B.0.

13 A I'm sorry, which page?

14 Q Page 38. In this section of your testimony
15 you testified here on additions to plant, correct?

16 A That is correct.

17 Q On Lines 854 to 856, you state Mr. Effron's
18 methodology is arbitrary and ignores the impact of
19 any infrequent and nonrecurring events, correct?

20 A That is correct.

21 Q On Page 36, Lines 807 to 809, you state
22 Mr. Griffin attempts to dispel the accuracy of Nicor

1 Gas' capital expenditure budget by comparing actual
2 to budgeted variances over a historical time period,
3 correct?

4 A That is correct.

5 Q Mr. Griffin compares actual capital
6 expenditures with budgeted capital expenditures for
7 the years 1998 to 2003, correct?

8 A That is correct.

9 Q The nonrecurring events you refer to are
10 the two cancellations, the customer care information
11 system project terminated in 1998 and the 2003
12 compressor project under budgeted in 2002 by about
13 \$7 million, correct?

14 A That is correct.

15 Q And both the cancellations to the customer
16 care information systems project and the compressor
17 project took place in different years, correct?

18 A That is correct.

19 Q Does every budgeted item always become an
20 actual expenditure?

21 A Every budgeted item to the extent that we
22 incur costs on that specific item would become an

1 actual expenditure, that's correct.

2 Q Mr. Gorenz, of all items budgeted, do they
3 all become actual expenditures?

4 A To the extent a budgeted capital
5 expenditure is deferred in the current period then
6 there may not be capital expenditures associated with
7 that in the current period.

8 Q Would that also be the case if the item was
9 canceled?

10 A I'm sorry, could you repeat the question?

11 Q Would it also be the case that actual
12 expenditures fell below budget expenditures if items
13 were canceled?

14 A If items were canceled, prior to the
15 completion, generally speaking, their actual
16 expenditures would likely be less than the budget,
17 yes.

18 Q And as you mentioned, one reason the
19 company could fall under budget would be that
20 cancellations occurred, correct?

21 A There are a number of reasons that one
22 might fall below budget in any calendar year. One of

1 those reasons could be a project cancellation.

2 Q If it is true that these nonrecurring, as
3 you referred to them, cancellations took place in two
4 different years out of a 6-year period, isn't it
5 possible that a cancellation can take place in 2005,
6 the forecast year?

7 A The reason that I make reference to these
8 two individual projects, I guess there is
9 three points that I would like to make. Number one,
10 their significance, they are two of the larger
11 projects in Nicor Gas' history. Second of all, the
12 fact that the projects were well underway before the
13 decision to cancel those projects is unique and
14 that's why we pulled them out of this analysis. And
15 then the third reason is that in the last 10 to 15
16 years I do not recall any capital expenditures of
17 this magnitude that were canceled similar to these
18 and that's why we felt it was appropriate to exclude
19 these from the analysis.

20 Q Mr. Gorenz, isn't it possible that a
21 cancellation can take place in the year 2005, the
22 forecast year?

1 A It is possible that a cancellation could
2 take place.

3 Q Please refer to Page 81 of your rebuttal
4 testimony. You state on the top on Lines 814 to 815,
5 In 2005 Nicor Gas had begun the year recording
6 uncollectible account spending using a loss ratio of
7 1.40 percent, correct?

8 A That is correct.

9 Q Refer to Page 79, on Lines 1785 to 1790.
10 Could you actually please review these lines.

11 A Yes.

12 Q You state in those lines that you use a
13 rolling 12-month period to determine the percentage
14 of revenue that is not collected, correct?

15 A I state in Lines 1785 through 1790 that in
16 order to compute the loss ratio we first do a
17 correlation with compares charge offs to revenues
18 which gave rise to those charge offs. As indicated
19 in my rebuttal testimony and also in my surrebuttal
20 testimony, the 8-month is the best correlation, which
21 means that on average accounting is going to charge
22 off 8 months subsequent to its billing.

1 Q This calculation is how you calculate the
2 loss ratio, correct?

3 A That is correct.

4 Q The Company's revenue requirement would
5 increase with a higher loss ratio and decrease with a
6 lower loss ratio, correct?

7 A Correct.

8 Q Mr. Gorenz, did you review past Commission
9 dockets in coming to the decision of how to determine
10 the loss ratio?

11 A When we determined the loss ratio, again we
12 determine it consistent with the manner in which we
13 prepare our consolidated financial statements. Those
14 consolidated financial statements are reviewed and
15 audited in accordance with GAP by external auditors.

16 Q Did you review past Commission dockets in
17 coming to the decision of how to determine the loss
18 ratio?

19 A No.

20 MR. RATHNASWAMY: Your Honor, I'll object. It
21 is not clear to me that the assumption is made that
22 this individual witness made that decision or whether

1 he is being asked about a decision made by the
2 Company.

3 JUDGE ARIDAS: Do you want to try to clarify
4 that?

5 BY MR. GORG:

6 Q Mr. Gorenz, was there --

7 JUDGE BRODSKY: Was there a response to the
8 objection?

9 MR. GORG: I was going to try to clarify.

10 JUDGE BRODSKY: Okay, please proceed. Thank
11 you. BY MR. GORG:

12 Q Mr. Gorenz, in your preparation of your
13 testimony on the loss ratio, did you review past
14 Commission dockets?

15 A Past Commission documents in relation to
16 those relating specifically to Nicor Gas?

17 Q Relating to the determination of the loss
18 ratio.

19 A I did not. Reason being is that companies
20 may record or determine what their loss ratio is in a
21 different fashion. Charge offs, as a percentage of
22 revenues and their best correlation are fit to those

1 revenues, is largely dependent upon the credit
2 practices so you may see a different charge off or a
3 different manner in which to compute the
4 uncollectibles accounts between companies. This
5 process or this analysis that we perform is
6 appropriate and it's consistent with that which we've
7 utilized for several years.

8 Q Are you aware of past Illinois utility
9 positions regarding the determination of loss ratios?

10 A No.

11 Q Are you aware of the Commission decisions
12 regarding loss ratios from the last 4 years?

13 A No.

14 Q I would like to refer you to AG
15 Exhibit 1.3, Schedule C-2A. And if you don't have
16 it, I can provide a copy.

17 A I don't have a copy.

18 Q This schedule represents Mr. Effron's
19 calculations of loss ratios for the years 1999 to
20 2004, correct?

21 A What I'm viewing here appears to be a
22 response to AG Exhibit 1.3, Schedule -- I'm sorry,

1 yes, you're correct.

2 Q In each of those years the loss ratio is
3 below 1.40 percent, correct?

4 A I don't agree with his computation of the
5 loss ratio.

6 Q If you look at the column marked ratio,
7 however, in each of those years the loss ratio is
8 below 1.4 percent, correct?

9 A The ratio of actual net charge offs for the
10 calendar year, divided by the revenues for that
11 particular calendar year, which were not necessarily
12 those that gave rise to these charge offs. It does
13 appear as if it's less than 1.32 in those years, but
14 again that is not how loss ratio is appropriately
15 computed.

16 Q According to Schedule C-2A, the average for
17 the loss ratio for the most recent 3 years is
18 1.25 percent, correct?

19 A I don't see that average on here, and
20 again, I don't agree with the phrase loss ratio as
21 you refer to it.

22 Q If you were to calculate the average for

1 the past -- for the last 3 years, the number you
2 would get is 1.25 percent, correct?

3 A I don't see that average on here.

4 Q Can I provide a calculator for you?

5 MR. RATHNASWAMY: Your Honors, I'll object at
6 this point to the relevance of asking him to compute
7 the average of three figures which he says are
8 incorrectly calculated, presented by a witness who is
9 not him.

10 JUDGE BRODSKY: Sustained.

11 BY MR. GORG:

12 Q In 2004, according to this schedule, the
13 loss ratio was 1.32 percent, correct?

14 MR. RATHNASWAMY: Asked and answered.

15 MR. GORG: I don't believe it was asked, your
16 Honor.

17 MR. RATHNASWAMY: I'll withdraw the objection.

18 JUDGE BRODSKY: All right, fine.

19 THE WITNESS: Can you restate the question?

20 BY MR. GORG:

21 Q According to Schedule C-2A in 2004 the loss
22 ratio was 1.32 percent, correct?

1 A The loss ratio as calculated by the Company
2 is 1.39 percent as indicated in our rebuttal
3 testimony. This schedule that you're referring to
4 here, which again is not an appropriate calculation
5 of the loss ratio, would indicate that net charge
6 offs divided by revenues, which were not necessarily
7 associated or given rise to those charge offs, is
8 1.32.

9 Q Mr. Gorenz, please refer to your
10 surrebuttal testimony, Exhibit 41.0, Page 23.
11 Specifically Lines 488 to 491. You answer a question
12 about why you believe that the use of a historical
13 average is inappropriate in calculating the test year
14 loss ratio, correct?

15 A I specifically respond to the question why
16 do you believe the use of a historical average is
17 inappropriate in calculating the test year ratio.

18 Q Now, can you refer back to -- well,
19 actually stay on Page 23 and refer to Lines 495 to
20 496. You state that a review of the historical loss
21 ratios clearly indicates an upward trend in that
22 ratio, correct?

1 A That is correct.

2 Q You present no data to support this claim,
3 correct?

4 A I believe we have provided information in
5 our rebuttal testimony to support that. And I think
6 elsewhere we've also indicated that approximately
7 10 years ago that we had uncollectibles of 8 million
8 in comparison to our forecasted 35 million in the
9 2005 test year.

10 Q Could I refer you to Page 81 of your
11 rebuttal testimony. Beginning on Line 1822, do you
12 address Account 921, office supplies and expenses?

13 A Yes.

14 Q Now, could I refer you to Nicor Schedule
15 C-4, Page 4. And do you have a copy of it in front
16 of you?

17 A Let me see. I do not.

18 Q We can provide copies to the parties. On
19 Schedule C-4, Page 4, Line 111, was the actual office
20 supplies and expenses in 2003, \$17,165,000?

21 MR. RATHNASWAMY: Not in the nature of
22 objection, but I just want to be clear, is this

1 Schedule C-4 as part of the 285 submission or is it
2 part of something else?

3 MR. GORG: No, it's part of the 285.

4 THE WITNESS: Yes.

5 BY MR. GORG:

6 Q Did the Company budget \$18,895,000 for this
7 expense in 2004?

8 A The Company budgeted 18,895,000 for 2004.

9 Q Does this represent an increase in
10 \$1,730,000?

11 A Subject to check, yes.

12 Q Please refer to response to AG 1.36, and
13 this was a cross exhibit, Cross Exhibit 5 entered
14 earlier this morning, we will provide copies to the
15 parties. On Page 3 of the response, was the actual
16 office supplies and expenses in 2004, \$16,824,000?

17 A Yes.

18 Q Does this represent a decrease of \$341,000
19 from 2003 to 2004?

20 A Subject to check, yes.

21 Q Thus was the Company's forecast of office
22 supplies and expenses for 2004 off by \$2,071,000?

1 A I'm sorry, can you repeat the question?

2 Q Was the Company's forecast of office
3 supplies and expense for 2004 off by \$2,071,000?

4 A Yes.

5 Q Wouldn't you agree that as a general matter
6 the further into the future a forecast goes the more
7 likely it is to be off?

8 A No.

9 Q Please refer back to Nicor Schedule C-4,
10 Page 4, Account 921 showing the office supplies and
11 expenses. Does the forecasted expense of 23,633,000
12 for 2005 represent an increase of \$6,809,000 from the
13 actual expense incurred in 2004?

14 A The 2005 budget does represent an increase
15 over 2004 and it's due to several factors as we've
16 identified in both our rebuttal testimony and several
17 responses to data requests.

18 Q Does it represent an increase of
19 \$6,809,000?

20 A Subject to check, that looks appropriate.

21 Q And subject to check, this would be an
22 increase of about 40 percent over the actual expenses

1 incurred in 2004, correct?

2 A When we developed the budget for 2005, the
3 development of that budget was from the bottom up,
4 meaning it was created from the lowest level of
5 detail. We looked at specific projects --

6 MR. GORG: Object, your Honor, this is a yes or
7 no answer.

8 JUDGE BRODSKY: Sustained.

9 BY MR. GORG:

10 Q This is an increase of 40 percent over the
11 actual expense incurred in 2004, correct?

12 A Subject to check, that appears correct.
13 That increase is attributable to several factors,
14 again, that were identified specifically in our
15 rebuttal testimony, specific projects or specific
16 costs attributable to specific projects --

17 Q Thank you, Mr. Gorenz.

18 A -- that were identified in Schedule F-4 for
19 capital expenditures.

20 Q Your explanation of the increase in account
21 921 and this is Exhibit 26B, Pages 82 -- Page 82,
22 Lines 1855 to 1856, you list costs which are driven

1 by factors other than inflation and customer growth,
2 correct?

3 A That is correct.

4 Q You list three such costs, and they include
5 information technology, allocations from Nicor, Inc.
6 and contributions to the Gas Technology Institute,
7 correct?

8 A That is correct. Those are three
9 substantial costs that contribute to the increase
10 from '04 to '05.

11 Q I would like to refer you to Nicor's
12 response to AG 3.05 and mark it as a cross exhibit.
13 I believe it would be Cross Exhibit 7, AG Cross
14 Exhibit 7.

15 (Whereupon, AG Cross
16 Exhibit No. 7 was
17 marked for identification
18 as of this date.)

19 BY MR. GORG:

20 Q The response shows that the largest single
21 factor contributing to the increase in Account 921 is
22 the increase in allocations from Nicor, Inc.,

1 correct?

2 A That is correct.

3 Q And that amount is \$2.2 million, correct?

4 A Yes.

5 Q If you refer back to rebuttal testimony,
6 Page 83, Lines 1869 to 1872. You state, Such costs
7 allocated to Nicor Gas have increased in the test
8 year due to several factors including higher cost
9 associated with risk management and oversight
10 activities and related internal controls testing
11 evaluation, correct?

12 A That is correct.

13 Q Do you provide any data supporting your
14 claim that risk management costs have increased
15 causing a corresponding increase in cost allocations
16 from Nicor, Inc., to Nicor Gas?

17 A I'm sorry, could you restate the question?

18 Q Do you provide any data supporting your
19 claim that risk management costs have increased
20 causing a corresponding increase in cost allocations
21 from Nicor, Inc., to Nicor Gas?

22 MR. RATHNASWAMY: Your Honors, I'll object to

1 the ambiguity of the question in that it's not clear
2 whether he's being asked about information provided
3 solely in his testimony or information provided in
4 discovery and in Part 285 filing as well.

5 JUDGE BRODSKY: Sustained as to form, you may
6 rephrase.

7 BY MR. GORG:

8 Q Mr. Gorenz, with respect to your testimony,
9 do you provide any data supporting your claim that
10 risk management costs have increased causing a
11 corresponding increase to the cost allocations from
12 Nicor, Inc., to Nicor Gas?

13 A The risk management activities that we're
14 referring to here relate to the development and
15 expansion of a risk department within the
16 organization and the allocation of those costs
17 appropriately amongst the affiliates based upon the
18 two factor formula.

19 Q Do you provide data to provide those
20 numbers or any numbers to support your claim that
21 risk management costs have increased?

22 A The allocation of these costs is in

1 accordance with the operating agreement and is based
2 upon allocation of cost based upon the two factor
3 formula.

4 Q Mr. Gorenz, we just previously went through
5 why your position is that cost allocated to Nicor Gas
6 increased, correct? I can refer you back to your
7 testimony on Page 83, Lines 1869 to 1872.

8 A We just talked -- yeah, we just talked
9 about some of the reasons or factors behind why
10 allocations from Nicor have increased, correct.

11 Q And one of the reasons that you list is you
12 claim that risk management costs have increased,
13 correct?

14 A What I have claimed is that the cost
15 associated with the development of a risk
16 organization within the company, and the expansion of
17 that department in 2005, have increased and therefore
18 the allocation has increased.

19 Q And do you provide any data to support your
20 claim that the risk management costs have increased?

21 MR. RATHNASWAMY: Again, your Honors, I'll
22 object to the ambiguity because it's unclear whether

1 it's related to his testimony.

2 BY MR. GORG:

3 Q With respect to your testimony, do you
4 provide any data to support your claim that risk
5 management costs have increased?

6 A Specifically within the testimony, no.

7 Q Do you provide any data, with respect to
8 your testimony, supporting your claim that oversight
9 activities cost have increased causing a
10 corresponding increase in cost allocations from
11 Nicor, Inc. to Nicor Gas?

12 A We're referring to risk management and
13 oversight activities. So if your question is whether
14 risk management, slash, oversight, the answer is
15 yes -- I'm sorry, the answer is no, we have not
16 provided specific information.

17 Q And do you provide any data supporting your
18 claim with respect to your testimony that related
19 internal control testing and evaluation costs have
20 increased causing a corresponding increase in cost
21 allocations from Nicor, Inc. to Nicor Gas?

22 A As I previously stated in data responses

1 and so forth, we have provided information relating
2 to the costs behind these increases and the factors
3 driving those increases.

4 Q Mr. Gorenz, does the data that you have
5 provided with respect -- to back up the claims with
6 respect to your testimony, the claims that you make
7 in your testimony, explain why the growth in costs
8 charged to Account 921 should be \$2.2 million greater
9 in 2005 than in 2004?

10 A The information that we've provided in
11 response to data responses and so forth provide
12 support for the increase between 2004 actual and 2005
13 budget as well as 2004 budget and 2005 budget as well
14 as 2003 actual and 2005 budget.

15 Q Even assuming the costs charged to Account
16 921 grow exactly as forecasted from 2004 to 2005,
17 wouldn't the 2005 expense be less than reflected in
18 Nicor's proposed 2005 test year by \$2,071,000?

19 A No. As we indicated in our surrebuttal and
20 rebuttal testimony, as of March 31st our budget or
21 our estimate for operating maintenance expense during
22 the test year is on track. And what I mean by that

1 is when you compare our current estimate of what
2 total other operation maintenance expense will be for
3 the test year, we anticipate that we'll be half a
4 million dollars or less than five-tenths of 1 percent
5 greater than the test year budget.

6 So when you look in aggregate at the
7 total operating expense budget we are on track and
8 there is no reason to believe or no reason to isolate
9 an individual component such as office supplies and
10 expenses as you have here. Again, we're on track in
11 aggregate.

12 MR. GORG: I have no more questions, your Honor.

13 JUDGE BRODSKY: Okay, who wants to go next for
14 cross? Please proceed.

15 CROSS EXAMINATION

16 BY

17 MS. DOSS:

18 Q Good afternoon, Mr. Gorenz, my name is
19 Leijuana Doss on behalf of the Cook County State's
20 Attorney's office.

21 A Good afternoon.

22 Q I have only a few questions for you which

1 is not referring to your testimony, however it is
2 referring to what I will label as Cook County State's
3 Attorney's office, slash, CUB Cross Exhibit 5. May I
4 approach?

5 JUDGE BRODSKY: You may.

6 MR. RATHNASWAMY: I apologize for not knowing,
7 but not having been here, is this already in
8 evidence?

9 MS. DOSS: No, it isn't.

10 BY MS. DOSS:

11 Q Mr. Gorenz, do you recognize this document?

12 A Yes.

13 Q And did you prepare this response to
14 CUB/Cook County's 1.06, this is Nicor's response, did
15 you prepare it?

16 A It would have been prepared under my
17 supervision.

18 Q Now, looking at this Cross Exhibit 5, would
19 you agree with me that Nicor's gas and storage
20 inventory -- this shows Nicor's gas and storage
21 inventory as of December 31st, 2004.

22 MR. RATHNASWAMY: Your Honor, before that

1 question is answered, I would like to interpose an
2 objection. I believe this is only a partial copy of
3 the response to the data request. It is labeled as
4 Exhibit 3 and yet it has been tendered to the witness
5 as if it is the entire response.

6 MS. DOSS: Your Honors, it is correct that there
7 is some additional documents in front of it.
8 However, this is Exhibit 3, Page 1 of 1 and I do
9 believe it is a stand alone document.

10 MR. RATHNASWAMY: In that case, your Honors,
11 could I please at least note my objection to letting
12 the witness have the request, the data request
13 itself, in front of him?

14 JUDGE BRODSKY: Do you have that document?

15 MS. DOSS: No, I do not have the actual request.
16 However, as I said, this is a stand alone document
17 and I was laying the foundation that this is a chart
18 showing LIFO layers for December 31st, 2004 and
19 that's what the questioning is about. However, if you
20 want me to provide it, I can do so.

21 JUDGE BRODSKY: As long as the questions are
22 strictly based on the content of this page, you may

1 proceed.

2 BY MS. DOSS:

3 Q So as I was just -- to start over and get a
4 frame, this is regarding Nicor's gas and storage as
5 of December 31st, 2004, that's the title of the
6 document, correct?

7 A Yes, it does indicate that it's preliminary
8 actuals of December 31st, 2004.

9 Q And the inventory that is shown on this
10 chart is shown by LIFO layer, correct?

11 A That is correct.

12 Q And that's also in the title of the
13 document?

14 A Yes.

15 Q Now, if we look at the document, and I
16 would refer you to layer year 2003, do you see?

17 A Yes.

18 Q Now, as of December 31st, 2004, Nicor had
19 296,939,416 therms in storage inventory priced at 58
20 cents, correct?

21 A I'm sorry, can you repeat the question?

22 Q Well, maybe you need a frame of reference.

1 If you would look at the second column, again, we're
2 in layer year 2003, second column reads load factor
3 unit price?

4 A Yes.

5 Q And do you see it says 0.58 0.56 and so
6 forth?

7 A Yes.

8 Q Now, also could you refer to the sixth
9 column, which, it says total?

10 A Yes.

11 Q And do you see 296,939,416?

12 A Yes.

13 Q And that total is therms, correct, gas
14 therms?

15 A That's correct.

16 Q So would you agree with me that in 2003 the
17 total amount of therms listed, 296,939,416 therms,
18 was priced at 58 cents, approximately?

19 A Yes.

20 Q Now, if we would convert this to
21 decatherms, would you agree with me that that
22 conversion is from 1 to 10 in terms of 10?

1 A Yes.

2 Q Would that be looking at the same
3 information, 29,693,942 decatherms?

4 A Yes.

5 Q And would the price be at \$5.80 per
6 decatherm?

7 A 5.81, yes.

8 Q Now, again, looking at as of December 31st,
9 2004, and I want you to look at the same columns but
10 what we will look at is the layer year 1970. Now,
11 the total at that time, would you agree with me, is
12 269,352,885 therms?

13 A That represents the 1970 layer, correct.

14 Q And isn't that inventory priced at 3 cents?

15 A 3 cents per therm, correct.

16 Q Now, one last question. Would you agree
17 with me that as of December 31st, 2004, subject to
18 check, Nicor had approximately 300,000,000 therms in
19 storage priced at about 2.7 cents?

20 A I'm sorry, can you repeat that question
21 again?

22 Q If you would look at the remaining layers

1 would you agree that subject to check, that Nicor had
2 approximately 300,000,000 therms in storage priced at
3 about 2.7 cents?

4 A That's correct.

5 MS. DOSS: I have no further questions. And I
6 would move for admission of CCSAO, slash, CUB Cross
7 Exhibit 5.

8 MR. RATHNASWAMY: Your Honor, under the rule of
9 completeness I will object to the admission of this
10 single page, which has not showed the data request
11 that called for this and it does not show the first
12 two exhibits.

13 MS. DOSS: Your Honor, just briefly in response,
14 I have no objection to supplementing the exhibit and
15 putting the complete request with all responses.
16 However, again, the questions were in particular to
17 this particular exhibit, it is a stand alone exhibit,
18 the witness answered the questions without referring
19 to any type of other questioning. It's self
20 explanatory, it's labeled, has a title. I really see
21 no reason to supplement it in this particular
22 instance.

1 JUDGE BRODSKY: All right. The objection is
2 sustained, but you may move, perhaps tomorrow, for
3 the admission of the sheet that you've marked today,
4 alone with the other parts of the data request or
5 discovery request that go with it.

6 MS. DOSS: That's fine, your Honor.

7 JUDGE BRODSKY: That way it will be complete and
8 then there will be nothing left to the objection at
9 that point. So you can prepare that and submit it
10 when we reconvene.

11 MR. GORG: Your Honor, I apologize, I forgot to
12 move for this when I was done, but I would like to
13 move for the admission of AG Cross Exhibit No. 7 into
14 evidence.

15 MR. RATHNASWAMY: I'm sorry, which one is that?

16 MR. GORG: No. 7 is data response AG 3.05,
17 Nicor's response.

18 MR. RATHNASWAMY: Your Honors, unfortunately
19 under the rule of completeness I will object again
20 because the question refers to AG data request 1.38
21 which called for comparing the forecasts of 2004 and
22 2005, not the actuals for 2004 and the forecast for

1 2005. And thus if this exhibit is admitted without
2 AG data request 1.38 the record will be incomplete
3 and this will be out of context.

4 MR. GORG: Your Honors, if I can respond. The
5 exhibit was used solely to refer to Nicor's position
6 that there would be an increase in cost allocated for
7 Nicor, Inc. of \$2,200,000, all the questions
8 pertained to that one figure. And the questions and
9 answers were narrowly tailored.

10 MR. RATHNASWAMY: I do have a response.

11 JUDGE BRODSKY: Go ahead.

12 MR. RATHNASWAMY: There was also questions about
13 the incremental increase which Nicor was forecasting.
14 And in the context of that series of questions and
15 answers it was suggested that these data compared
16 2004 actuals with the 2005 forecast. That is
17 incorrect and the only way to show that in the record
18 is to include AG data request 1.38, unless counsel is
19 willing to stipulate.

20 JUDGE BRODSKY: Well, as far as the pending
21 objection I tend to agree it should be submitted
22 either all or nothing, so that leaves you with the

1 choice of whether you are going to stipulate or
2 whether you want to submit the complete package of
3 both data requests and responses or if you want to
4 withdraw the admission request for AG Exhibit 7.

5 MR. GORG: Would counsel please repeat the
6 stipulation?

7 MR. RATHNASWAMY: Sure, if it would be
8 stipulated that AG data request 1.38 asks for a
9 comparison of the forecasts for 2004 and 2005 in
10 relation to Schedule C-4 rather than the actuals for
11 2004 and the forecast for 2005, then it would not be
12 necessary, it is my position, to add 1.38 to this.

13 MR. GORG: We would move to offer both data
14 requests and responses tomorrow, if that is allowed,
15 your Honor.

16 JUDGE BRODSKY: That seems to satisfy the
17 Company as well.

18 MR. RATHNASWAMY: Yes.

19 JUDGE BRODSKY: So then first thing tomorrow
20 before we begin with testimony, please make that
21 motion again to submit both into the record.

22 Okay, was there further cross for this

1 witness?

2 MR. LERNER: Yes, there is, your Honor, I've
3 spoken to Mr. Feeley, it will go real quick. Might I
4 state an appearance?

5 JUDGE BRODSKY: If you want, you can use the
6 podium.

7 MR. LERNER: That would be fine, I'll use the
8 podium. I'm Howard Lerner appearing as counsel for
9 the Environmental Law and Policy Center along with
10 co-counsel. If I might approach, we've marked as
11 ELPC Cross Exhibit 3, 4 and 5 three data requests
12 that were submitted by the Environmental Law and
13 Policy Center and responded to by the Company.

14 In conversations with Mr. Rippie and
15 Mr. Zibart we've agreed that Mr. Gorenz is the right
16 witness.

17 (Whereupon, ELPC Cross
18 Exhibits Nos. 3, 4 and 5 were
19 marked for identification
20 as of this date.)

21 CROSS EXAMINATION

22 BY

1 MR. LERNER:

2 Q Mr. Gorenz, are you familiar with what has
3 been marked as ELPC Cross Exhibit 3?

4 A Yes, I am.

5 Q And for the record, that is the Company's
6 response to ELPC data request 1.02. Was it prepared
7 under your direction or supervision?

8 A Yes, it was.

9 Q Is it true and correct to the best of your
10 knowledge?

11 A Yes.

12 MR. LERNER: We would move for the admission of
13 ELPC Cross Exhibit 3.

14 MR. RATHNASWAMY: Your Honor, I object on the
15 grounds of relevance and it is beyond the scope of
16 the witness' testimony. But with regard to relevance
17 in particular, I cannot see any relationship at this
18 point between the data requests and the matters at
19 issue.

20 MR. LERNER: Your Honor, Nicor is proposing that
21 base rates be based on the marginal cost of service
22 study. And the cost of gas supply per therm on a

1 monthly basis is addressed by this as being higher
2 than the average cost. As part of the ratemaking
3 case, Nicor is proposing that uncollectibles be
4 considered as part of the gas supply cost. And
5 Nicor's testified that in basing rates the marginal
6 cost of supply study ought to be used to provide
7 price signals to the customers.

8 What this exhibit does is it compares
9 the highest price per therm that's paid each month,
10 as you'll see then with Exhibit 4 and 5, what the
11 average cost is, the three of these fit together in
12 terms of the highest price per therm each month to
13 the average and then the total amount of therms being
14 sold.

15 So with regard to whether this witness
16 is appropriate or not, we had some conversations can
17 Mr. Rippie and Mr. Zibart about what should be
18 directed to Mr. Gorenz who has testified they were
19 prepared under his direction and supervision and what
20 should be directed to Witness Harms. We understood
21 to go forward here with Mr. Gorenz.

22 JUDGE BRODSKY: Okay, is there a response?

1 MR. RATHNASWAMY: I apologize for the
2 unconventional nature.

3 JUDGE BRODSKY: Before we get going, can both
4 you and counsel for ELPC use the microphones because
5 it is hard to hear.

6 MR. RATHNASWAMY: Your Honors, I would like to
7 speak to the relevance issue, Mr. Rippie can speak to
8 whatever understanding there was or was not with
9 ELPC. So would it be all right if two attorneys in
10 this instance speak to this?

11 JUDGE BRODSKY: That's fine.

12 MR. RATHNASWAMY: As to the relevance of this,
13 the cost of gas under Rider 6 is in general not a
14 matter before the Illinois Commerce Commission in the
15 case. Now, I do agree, there are rate design issues
16 about whether certain costs should be recovered
17 through Rider 6 or through base rates. But on its
18 face this document has nothing to do with that rate
19 design issue.

20 And as for uncollectibles, it is true
21 the amount of uncollectibles is a matter at issue in
22 this case and its relation to the cost of gas, but on

1 the face of the document I see no connection between
2 this document and the issue of uncollectible
3 expenses.

4 JUDGE BRODSKY: And Mr. Rippie.

5 MR. RIPPIE: Ms. Bugel and I and at a later date
6 Mr. Lerner and I had a brief discussion as to which
7 witness would be able to authenticate these documents
8 and verify that they were in fact the data request
9 responses and that the data contained therein are
10 accurate. And Mr. Lerner has in fact showed Mr.
11 Gorenz the data response that he would be able to
12 confirm are accurate.

13 I tried to make clear, and I believe
14 that I did, that that was without prejudice to our
15 argument that none of this had anything to do with
16 the direct testimony or any issue in the case. And
17 that is the crux of both the objection, if you call
18 it one, of being out of scope of direct or whether
19 you call it relevance, it's not that these documents
20 aren't authentic or that the data on them is not
21 correct, but that they simply don't have anything to
22 do with the rate sheets that are the subject of this

1 case.

2 MR. LERNER: Your Honors, if I might respond.

3 First, I think we've cleared out the is this the
4 appropriate witness to direct this to. We obviously
5 have a disagreement on whether it's relevant or not.
6 As you know, part of our case through Witness Dr.
7 Cushler is that energy efficiency can save customers
8 money by avoiding some of the expensive natural gas
9 at the margin that's part of the supply, thereby
10 reducing the average cost and thereby saving all
11 consumers money.

12 These exhibits go to that point. They
13 have been presented by an expert witness you'll be
14 hearing from next week. There are witnesses that
15 have been put on by Company, by staff and others who
16 are disagreeing with that.

17 With regard to the factual
18 information, what are the costs of gas at the margin
19 versus the average cost, rather than having witnesses
20 disagree on what those numbers are, we thought it
21 would go to the administration of justice here to
22 simply take the numbers that were supplied by the

1 Company in response to data requests, and have those
2 numbers in the record. Those are the numbers, they
3 support the case with regard to the value of the
4 energy efficiency that is being put on by Witness
5 Cushler.

6 Ultimately, perhaps, there is a
7 disagreement between Nicor and the Environmental Law
8 and Policy Center, CUB and other parties as to
9 whether energy efficiency ought to be in this case or
10 not, we believe it should be. It is appropriately
11 part of the case, there is a witness so testifying to
12 it and other witnesses have testified on it. We
13 ought not to get that issue caught up in what the
14 numbers are.

15 These are data request responses by
16 the Company, apparently prepared under the direction
17 and supervision of Mr. Gorenz. We move the admission
18 of Exhibit 3 and we propose to do the same with 4 and
19 5. That's how those fit into the case.

20 MR. RATHNASWAMY: Your Honors, because a new
21 ground for admission of this document has now been
22 submitted I would like to respond. Rather than now

1 suggesting the original two grounds, it is suggested
2 this is relevant to the direct testimony or the
3 testimony as a whole of Dr. Cushler. In that case
4 this in essence is being offered as supplemental
5 direct or supplemental rebuttal of
6 Dr. Cushler and that is not appropriate. It is not
7 relevant to this witness' testimony and our overall
8 relevance objections on the first two points which
9 were suggested as the grounds for admission remain.

10 MR. LERNER: I thought the first one was obvious
11 given the issue in this case involving energy
12 efficiency. If it wasn't, my apologies, but I think
13 in conversations among counsel everybody knew exactly
14 why we're moving to put these in.

15 MR. RIPPKE: Your Honors, if I may for 1 minute,
16 let me suggest a way it can be resolved. We are
17 having a mini argument about an argument that is
18 going to be decided at the end of this case on the
19 record. And on that much of Mr. Lerner's arguments I
20 agree. He has witnesses, we've made objections on
21 just this ground on every one of them and we are
22 having a mini argument about that now.

1 So the suggestion I guess the
2 Company's prepared to make at this point is that you
3 take these objections with the case, just as you'll
4 have to take it with the case in connection with the
5 ultimate significance of Cushler's testimony and
6 Jensen's testimony and the other testimonies of the
7 various witnesses on this subject the relevance of
8 which is highly contested.

9 I don't think it serves our interests
10 well to ask your Honors to necessarily make a ruling
11 on that big issue now. We think these are legitimate
12 objections and they'll get argued on the record, I
13 think. So if it is acceptable, can you reserve
14 ruling on these exhibits and take them with the
15 larger issue in the case? You're, of course,
16 entitled to ask the witnesses questions about them
17 pending the reservation of the ruling.

18 MR. LERNER: What we are going to wind up having
19 is holding the admission of Mr. Jensen's testimony,
20 Mr. Cushler's testimony, aspects of staff witnesses'
21 testimony and so forth.

22 Let me try to reach a way that I think

1 gets to the same point. The Company at some point is
2 going to argue before the Commission that the energy
3 efficiency matters ought not be part of the case.
4 Why don't you just reserve the objection, we'll move
5 Jensen's testimony in, Cushler's testimony in, the
6 exhibits in. To the extent that the Commission were
7 to find later that energy efficiency issues are not
8 appropriately part of the case, we would agree that
9 these would go out as would quite a bit of other
10 stuff. That way everybody's rights are preserved.

11 MR. RIPPIE: That's the functional equivalent of
12 what I said.

13 MR. LERNER: We then, subject to that
14 understanding, move the admission of ELPC Cross
15 Exhibit 3.

16 MR. ROBERTSON: Your Honor, just for the record,
17 IIEC would join in the Company's objection as to
18 relevancy. We don't have any additional arguments to
19 make.

20 JUDGE BRODSKY: Anybody else?

21 MR. KELTER: Just I would like to respond also
22 then, please, because CUB thinks it's important that

1 this gets in the record. And we believe that in an
2 administrative proceeding it should be taken into
3 consideration that the judges can weigh the important
4 of the testimony and the merits of it for themselves,
5 but that the Commission wants a complete record and
6 that this should get in.

7 JUDGE BRODSKY: All right. Having heard the
8 various arguments, the objection is overruled and at
9 this point, Mr. Lerner, you may proceed.

10 MR. LERNER: Your Honor, I understand then ELPC
11 Cross Exhibit 3 is admitted, correct?

12 JUDGE BRODSKY: That's correct.

13 (Whereupon, ELPC Cross
14 Exhibit No. 3 was
15 admitted into evidence as
16 of this date.)

17 MR. LERNER: If I could turn to ELPC Exhibit 4,
18 which is Nicor's response to ELPC data request 1.03
19 BY MR. LERNER:

20 Q Mr. Gorenz, are you familiar with this data
21 request response?

22 A Yes.

1 Q Is the information contained in this true
2 and correct to the best of your knowledge?

3 A Yes.

4 Q Was it prepared under your direction or
5 supervision?

6 A Yes.

7 MR. LERNER: We'll move the admission of ELPC
8 Cross Exhibit 4, please.

9 MR. RATHNASWAMY: For purposes of the record,
10 your Honor, we renew our objections but will not
11 restate it.

12 JUDGE BRODSKY: Mr. Robertson.

13 MR. ROBERTSON: Just one additional thing here,
14 it appears to me that we're in a situation where
15 we're having a witness testify as to the authenticity
16 of documents or information that is not relevant to
17 his testimony. Therefore, it would make it difficult
18 to cross examine him on this material, even if we had
19 been prepared to do so.

20 Now, this is material that the ELPC
21 and others could have put into the records through
22 their own witnesses. To place it into the record at

1 this point in time and this fashion severely
2 prejudices other parties rights to prepare for cross
3 examination and conduct cross examination on it
4 because this is not the witness who can testify to
5 the relevancy of the issue that is raised by
6 Mr. Lerner which relates to issues raised by other
7 witnesses in a case, other than this witness.

8 So anyway, I would renew the
9 objection, and add the additional grounds and I'll
10 sit down and be quiet since you made your ruling.

11 JUDGE BRODSKY: Well, certainly to the extent
12 that the material is addressed to the current witness
13 there will be an opportunity, I suppose, for further
14 testimony from him. But in any case, consistent with
15 the previous ruling, the objections are noted for the
16 record, but otherwise overruled. Mr. Lerner?

17 MR. LERNER: And ELPC Cross Exhibit 4 so
18 admitted; is that correct?

19 JUDGE BRODSKY: Yes.

20

21

22

1 (Whereupon, ELPC Cross
2 Exhibit No. 4 was
3 admitted into evidence as
4 of this date.)

5 BY MR. LERNER:

6 Q Mr. Gorenz, if I could direct your
7 attention, please, to ELPC Cross Exhibit 5 which
8 involves Nicor's response to ELPC data request 3.01.
9 Are you familiar with that document?

10 A Yes.

11 Q Was it prepared under your direction and
12 supervision?

13 A Yes.

14 Q Is it true and correct to the best of your
15 knowledge with regard to the information included
16 therein?

17 A Yes.

18 MR. LERNER: We would move the admission of ELPC
19 Cross Exhibit 5 and I understand some parties have
20 objections, some parties support it and we won't all
21 restate our arguments.

22 MR. RATHNASWAMY: If that's acceptable to, your

1 Honors.

2 JUDGE BRODSKY: I presume that everybody is
3 taking the same position as they've just articulated.

4 MR. ROBERTSON: That's correct.

5 MR. KELTER: Yes.

6 JUDGE BRODSKY: Well, then the ruling will be
7 consistent as well.

8 MR. LERNER: So admitted?

9 JUDGE BRODSKY: ELPC No. 5 is admitted and the
10 objections are noted for the record.

11 (Whereupon, ELPC Cross
12 Exhibit No. 5 was
13 admitted into evidence as
14 of this date.)

15 MR. LERNER: Thank you very much, we have no
16 further questions.

17 JUDGE BRODSKY: Does staff have cross for this
18 witness?

19 MR. FEELEY: Yes, just a few questions,
20 shouldn't take long at all.

21

22 CROSS EXAMINATION

1 BY

2 MR. FEELEY:

3 Q Good afternoon, Mr. Gorenz, my name is John
4 Feeley, I am one of the attorneys representing staff.

5 A Good afternoon.

6 Q If I could direct your attention to your
7 surrebuttal testimony, Exhibit 41.0, Page 28.

8 A I'm sorry, which page?

9 Q 28. You see Lines 614 through 620 there?

10 A Yes.

11 Q Is it correct that those lines you indicate
12 that you disagree with staff Witness Struck's
13 interest synchronization adjustment?

14 A That's correct.

15 Q And your basis for your disagreement with
16 Mr. Struck's adjustment, is it correct that you
17 disagree with the rate base amount and the weighted
18 cost Mr. Struck uses in his calculation?

19 A That's correct.

20 Q If I could refer you to your Exhibit 26.1,
21 Schedule 1.03.

22 A I'm sorry, could you repeat the reference?

1 Q Exhibit 26.1, Schedule 1.03, it's on Page
2 1.
3 A I'm sorry, can you repeat that again?
4 Q It's 26.1, Schedule 1.03.
5 A Yes.
6 Q And do you have available or I can make
7 available to you Mr. Struck's Schedule 10.06 revised,
8 his interest synchronization adjustment, I have a
9 copy. Can I approach the witness?
10 JUDGE BRODSKY: Yes, you may.
11 BY MR. FEELEY:
12 Q I would like you to look at your Schedule
13 1.03 to Exhibit 26.1 and Mr. Struck's schedule 10.06
14 revised. And would you agree that with the exception
15 of the input values for weight based and rated cost
16 of debt, your method of calculating the interest
17 synchronization adjustment is the same as Mr.
18 Struck's method?
19 A With the exception of our differences for
20 rate based and weighted cost of debt, our methodology
21 is consistent.
22 Q And would you agree that the Commission

1 should use that methodology, which is the same for
2 you and Mr. Struck, to determine the final interest
3 synchronization adjustment in this case, using the
4 rate base and weighted cost of debt the Commission
5 finds is appropriate in the case?

6 A Yes.

7 MR. FEELEY: That's all I have. Thank you,
8 Mr. Gorenz.

9 JUDGE BRODSKY: Redirect?

10 MR. RATHNASWAMY: May I consult with the
11 witness, your Honor?

12 JUDGE ARIDAS: For what purpose? Are you asking
13 for a break?

14 MR. RATHNASWAMY: A break would be preferable.

15 JUDGE ARIDAS: We'll give you a few minutes.

16 (Break taken.)

17 JUDGE BRODSKY: Redirect then.

18 MR. RATHNASWAMY: No redirect, your Honor.

19 JUDGE BRODSKY: Okay, thank you. Thank you,
20 Mr. Gorenz. (Witness excused.)

21 (Witness sworn.)

22

1

2

CHRISTINE L. SUPPES,

3

called as a witness herein, having been first duly

4

sworn, was examined and testified as follows:

5

DIRECT EXAMINATION

6

BY

7

MS. FONNER:

8

Q Please state your full name for the record,

9

spelling your last name.

10

A Christine L. Suppes, S-u-p-p-e-s.

11

Q Please state your business address.

12

A Nicor Gas, 1844 Fairy Road, Naperville,

13

Illinois.

14

Q And you are employed at Nicor Gas Company?

15

A That is correct.

16

Q In what capacity?

17

A I am vice president of sales and customer

18

care.

19

Q Are you the same Christine L. Suppes who

20

submitted prefiled direct, rebuttal and surrebuttal

21

testimony in this proceeding?

22

A That is correct.

1 Q Do you have before you what is marked as
2 Nicor Gas Exhibit 38?

3 A I do.

4 Q And is that the surrebuttal testimony that
5 was submitted in this proceeding on your behalf?

6 A Yes, it is.

7 Q Was this testimony created by you or
8 prepared under your direction and control?

9 A Yes, it was.

10 Q If I asked you the same questions that are
11 contained in Nicor Exhibit 38 today would your
12 answers be the same?

13 A That is correct.

14 Q Turning now to Nicor Gas Exhibit 23, marked
15 as rebuttal testimony of Christine L. Suppes, is this
16 in fact a true and accurate copy of the rebuttal
17 testimony submitted on your behalf in this
18 proceeding?

19 A Yes, it is.

20 Q Subject to any later corrections or updates
21 in your surrebuttal testimony, are all of the answers
22 stated therein true and accurate to the best of your

1 ability and if I asked you the same questions today
2 that your answers would be the same?

3 A Yes, that's correct.

4 Q Does that hold true as well to the
5 attachments to Nicor Gas Exhibit 23, those being
6 Nicor Gas Exhibit 23.1, 23.2 and 23.3?

7 A Yes, it does.

8 Q Turning to Nicor Gas Exhibit 7, the direct
9 testimony of Christine L. Suppes, is this in fact a
10 true and accurate copy of your direct testimony that
11 was submitted in this proceeding?

12 A Yes, it is.

13 Q Subject to any subsequent corrections or
14 updates, if I ask you the same questions contained in
15 this document today, would your answers be the same?

16 A Yes, they would.

17 MS. FONNER: At this point I would move for
18 admission of Nicor Gas Exhibits 7.0, 23.0, 23.1,
19 23.2, 23.3 and 38.

20 JUDGE ARIDAS: Are there any objections to the
21 aforementioned exhibits being admitted into the
22 record? Hearing none, they are so admitted.

1 (Whereupon, Nicor Gas Exhibits
2 Nos. 7.0, 23.0 through 23.3 and
3 38 were admitted into
4 evidence having been
5 previously marked on e-docket.)

6 JUDGE ARIDAS: Mr. Kelter, please proceed with
7 your cross.

8 CROSS EXAMINATION

9 BY

10 MR. KELTER:

11 Q Good afternoon, Ms. Suppes, my name is Rob
12 Kelter, I'm the attorney for the Citizens Utility
13 Board. Turning to Page 2 of your direct testimony,
14 please, at Line 37 of your direct, it indicates that
15 you're responsible for supervision of the call
16 center; is that correct?

17 A That is correct, I am responsible for the
18 call center.

19 Q Ms. Suppes, I would like for you to turn to
20 CUB data request 3.05.

21 A Go ahead.

22 Q You know what, can we go off the record for

1 one second for a housekeeping matter?

2 JUDGE ARIDAS: Let's go off the record.

3 (Discussion off the record.)

4 BY MR. KELTER:

5 Q Ms. Suppes, can you please turn to CUB
6 3.05?

7 A Yes.

8 Q In response to CUB 3.05, you state that
9 Nicor employees in the call center sell Comfort Guard
10 and heating ventilation air conditioning maintenance
11 and repair plans for Nicor Services, correct?

12 A Yes, that is correct.

13 Q Do Nicor Gas employees in the call center
14 sell any similar plans for companies outside the
15 Nicor family?

16 MS. FONNER: I just want to make it clear, since
17 now we're not talking about the data requests
18 themselves, that Nicor Gas Company has the same
19 general objection as it stated with respect to
20 Mr. D'Alessandro's testimony that we object to this
21 entire line of questioning as being irrelevant to
22 these proceedings and beyond the scope of

1 Ms. Suppes' testimony.

2 MR. KELTER: Well, a couple things, one, I think
3 some of this will get sorted out when you rule on the
4 motion in limine. But number two, she does testify
5 that she runs the call center.

6 MS. FONNER: That's still beyond the scope. She
7 indicated that she ran the call center. What you're
8 asking about is a particular data request responses
9 behind that that have nothing to do with her
10 testimony.

11 MR. KELTER: Well, I don't know that she's
12 limited to the scope of her testimony anyway, number
13 one. Number two, if it is somewhat related to her
14 testimony and I believe this is related to her
15 testimony.

16 JUDGE ARIDAS: We'll let you proceed on the same
17 grounds as Mr. D'Alessandro, narrowly tailored
18 questions, keeping in mind the pending motion.

19 MR. KELTER: Your Honor, with all due respect, I
20 don't know what you mean by keeping in mind the
21 pending motion. Once the motion is ruled on -- I
22 mean, I want to get all the questions I want to ask

1 about Comfort Guard in today. I'm not going to have
2 a chance to question the witness after this. So I
3 have several questions related to Comfort Guard.

4 JUDGE ARIDAS: Proceed.

5 BY MR. KELTER:

6 Q Ms. Suppes --

7 MR. KELTER: I'm sorry, you don't have the last
8 question handy, do you, that I asked her?

9 (Record read as requested.)

10 THE WITNESS: No, they do not.

11 BY MR. KELTER:

12 Q At Line 37 of your direct testimony, you
13 state that you are in charge of the Company's billing
14 function, correct?

15 A That is correct.

16 Q For customers who sign up for Comfort
17 Guard, does Nicor Gas do the billing for Comfort
18 Guard?

19 A The billing of Comfort Guard is on the
20 Nicor gas bill.

21 Q If a customer is in arrears with Nicor Gas,
22 in other words, they fail to pay their bill in the

1 entirety, when the customer makes a payment on the
2 amount due, what is the formula for allocating funds
3 between Nicor Gas and Nicor Services?

4 A I do not have that information here. I do
5 not know.

6 Q It's part of your responsibility, though,
7 correct?

8 A I am responsible for the billing function.

9 Q Is there somebody else we should ask that
10 question?

11 A I don't know.

12 Q If a customer owes money to both Nicor Gas
13 and Nicor Services, and they don't pay the bill in
14 full, do you know how the billing system allocates
15 funds between Nicor Gas and Nicor Services?

16 MS. FONNER: I believe that was asked and
17 answered. If I understood correctly, that was the
18 question that Ms. Suppes just answered that she did
19 not know.

20 MR. KELTER: I thought I worded it a little bit
21 differently.

22 JUDGE ARIDAS: I'll sustain the objection.

1 BY MR. KELTER:

2 Q Moving to Line 79 of your direct testimony,
3 you indicate that the Company has made numerous
4 investments in order to support or perform billing
5 functions, correct?

6 A Yes, that is correct.

7 Q Do any of these changes enhance the
8 Company's billing for Comfort Guard and HVAC
9 services?

10 A Not that I can think of today.

11 Q Then would it be your testimony that Nicor
12 Services -- does Nicor Services or other companies
13 that you bill for, do they benefit in any way from
14 those changes?

15 A I'm sorry could you --

16 MS. FONNER: Objection, now we're even further
17 beyond the scope, now we're beyond Nicor Services,
18 now he's opening it up to all other Nicor affiliates,
19 apparently, which is not even consistent with what
20 Mr. Kelter indicated they wanted to have supplemental
21 direct testimony about.

22 MR. KELTER: I believe I had said Nicor

1 Services, but the issue here is that there has been
2 an investment made by the company in its billing, a
3 dollar amount investment. What we're trying to find
4 out is whether that dollar amount investment was made
5 just for Nicor Gas or whether affiliates of Nicor Gas
6 also benefit.

7 MS. FONNER: And I believe
8 Ms. Suppes just testified she was not aware of today
9 any of the billing investments and information
10 technology that would benefit Nicor Services.

11 MR. KELTER: I don't believe that's what she
12 testified to.

13 JUDGE ARIDAS: Overruled.

14

15 BY MR. KELTER:

16 Q Could you answer the question, please?

17 A Could you restate the question.

18 (Record read as requested.)

19 THE WITNESS: Today I cannot think of how they
20 benefit.

21 BY MR. KELTER:

22 Q Turning to Line 162 -- I'm sorry, Line 178,

1 you state data is used to identify the level of risk
2 in the segment customer balances and payment habits,
3 correct?

4 A That is correct.

5 Q Is the data used in any manner by Nicor Gas
6 in determining which customers to offer Comfort Guard
7 or other HVAC services to?

8 A The data from the credit project in that
9 Line 178 and 179 is not used for that purpose.

10 Q Was the data shared in any way with Nicor
11 Services?

12 A No, it was not.

13 MR. KELTER: Give me a second here because I
14 think based on that response I can eliminate the next
15 few questions, but I want to make sure.

16

17 BY MR. KELTER:

18 Q Could you turn to Line 193, please

19 A Yes.

20 Q At Line 193, I believe it's accurate to
21 state that Nicor Gas' forecasted uncollectibles are
22 \$30,355,000 for 2005, correct?

1 A That is what's stated in my direct
2 testimony.

3 Q Does this amount include any money owed for
4 non-payment related to Comfort Guard or HVAC
5 services?

6 A No, it would not.

7 Q I want to give you a hypothetical. If a
8 customer's gas bill is \$100, and that includes \$4 for
9 Comfort Guard, and the customer pays the rest of the
10 bill, other than that \$4 for Comfort Guard, is the
11 customer considered to be in arrears for purposes of
12 charging a late fee?

13 A Could you run through that one more time
14 for me?

15 Q Sure. Say a customer owes \$100. Four
16 dollars of that is for Comfort Guard. They pay the
17 other \$96 -- they pay \$96 on the bill. My question
18 is, is the customer considered to be in arrears for
19 purposes of charging a late fee when they've paid the
20 amount due to Nicor Gas?

21 A I believe as I had alluded to earlier on a
22 question, I'm not familiar with the cash posting

1 methodology that I believe you're asking about.

2 Q And you said you weren't sure who was?

3 A That is correct.

4 Q Turning to Line 150 --

5 MR. KELTER: Your Honor, before we go to the
6 next question can I make an on-the-record data
7 request asking the Company to provide us with the
8 allocation practice for partial payment for customers
9 who are in arrears?

10 MR. RIPPPIE: Mr. Kelter can make a data request
11 at any time and it's subject to the rules.

12 JUDGE ARIDAS: You may do that.

13 BY MR. KELTER:

14 Q Turning to -- actually let's start at Line
15 146. There is a discussion in this paragraph of the
16 different tools that Nicor Gas uses for customers who
17 are delinquent, correct?

18 A That is correct.

19 Q Are those tools used -- does Nicor Gas
20 utilize those collection tools as outlined here to
21 collect money owed Nicor services for Comfort Guard?

22 A No, they do not.

1 Q Turning to Line 215, you discuss payment
2 plans there, correct?

3 A That is correct.

4 Q When the Company sets up a payment plan,
5 does that include money owed Nicor Services for
6 Comfort Guard and HVAC services?

7 A No, I do not believe it does.

8 Q Turning to data response CUB 3.01.

9 MR. KELTER: I want to ask a question about one
10 of the bill inserts and I want to explain what I've
11 done, because there is a series of 20 to 30 bill
12 inserts in that exhibit. And I thought that the
13 easiest way to do this would be to plot the one that
14 I wanted to ask specifically about and mark it as an
15 exhibit, even though -- a separate exhibit, even
16 though we're tendering all of those at once,
17 otherwise it's going to be hard to identify the
18 exhibit and keep it straight.

19 MS. FONNER: We have no objection to that, the
20 rule of completeness is not an issue.

21 MR. KELTER: I just have one housekeeping
22 question. I know we were asked to number the

1 exhibits in order and we tried to coordinate that
2 with Cook County, but I think they submitted a cross
3 exhibit earlier; is that correct? This is CUB/CCASO
4 Exhibit 5 and Exhibit 6.

5 JUDGE ARIDAS: I believe this one is 6.

6 MR. KELTER: So this would be 6 and 7. They're
7 not properly marked. Can I, because of the problem
8 with the numbering, can I do this, can I give them to
9 you for purposes of reference today and then bring in
10 them properly numbered tomorrow?

11 JUDGE ARIDAS: That's fine.

12 MR. KELTER: Okay I'm going to hand out two
13 exhibits. And I'll ask --

14 BY MR. KELTER:

15 Q Just to set a foundation here, turning to
16 CUB 3.01, you did in fact include what will be
17 CUB/CCSAO Exhibit 6.0 as a bill insert that was sent
18 to customers, correct?

19 A I believe if it's out of 3.01, that would
20 be correct.

21 Q And could you take a look at CUB
22 Exhibit 6.0 -- CUB/CCSAO 6.0 and CUB/CCSAO

1 Exhibit 7.0. The reason I've given you both of these
2 exhibits is I believe that one is the same as the
3 other. The CUB Cook 6.0 is blurred and not clear, so
4 I'm just asking you to authenticate that this is the
5 same bill insert.

6 A I would need to go line by line in order to
7 tell you that these are the same. I can't answer
8 that question.

9 Q Well, could you do that, please?

10 MR. KELTER: It won't take long, all I'm trying
11 to do here is submit something that is clear because
12 6 is so blurry that it's difficult to read.

13 JUDGE ARIDAS: Well, is this the original? Why
14 is this blurry?

15 MR. KELTER: Because that's what they submitted
16 to us.

17 JUDGE ARIDAS: That's what they submitted to
18 you, I see.

19 THE WITNESS: I believe the copy is the same.

20 BY MR. KELTER:

21 Q Thank you. And would you agree, subject to
22 check, that this bill insert was sent to customers in

1 a Nicor gas bill in August 2004?

2 A I would be unable to tell you what month
3 this bill insert was inserted. It is set up at a
4 size that would go inside a Nicor envelope. So
5 that's the best I can do.

6 Q Well, your answer to 3.01 describes this as
7 a solicitation by Nicor Gas affiliates that was sent
8 to Nicor Gas customers -- strike that question.

9 I asked that question subject to
10 check, so I'll ask a data request. Could you please
11 inform us whether the -- whether that was in fact a
12 Nicor gas bill insert and the date of it, please?

13 JUDGE ARIDAS: Are you making a formal on the
14 record data request?

15 MR. KELTER: Yes.

16 JUDGE ARIDAS: Okay, it's noted, proceed.

17 BY MR. KELTER:

18 Q Turning to your rebuttal testimony, please.
19 At Page 8, Line 163, you discuss the \$340,000
20 advertising expense described as branding, correct?

21 A That is correct.

22 Q Do you believe that such advertising

1 benefits Nicor Services in any way?

2 MS. FONNER: Objection to the form of the
3 question. 340,000 is talking specifically about
4 Nicor Gas' share. I don't know that I understand Mr.
5 Kelter's question.

6 BY MR. KELTER:

7 Q You're right. Does the total -- in terms
8 of Nicor Gas' advertising expense described as
9 branding, do you believe that branding provides
10 branding to Nicor Services?

11 MS. FONNER: I'm going to object to this line of
12 questioning. It describes in Ms. Suppes' testimony
13 the advertising is done at the Nicor, Inc. level and
14 the branding is included in those affiliates. So
15 what we're talking about in terms of branding as
16 related to Nicor Gas does not have any carry over to
17 Nicor Services.

18 MR. KELTER: You know what, I'll move on to
19 another question.

20 BY MR. KELTER:

21 Q At Line 179 you discuss the two factor test
22 for allocating advertising expenses, correct?

1 A That is correct.

2 Q Could you please define total asset
3 amounts?

4 A That is part of the formula in the
5 operating agreement for the allocation of this type
6 of an expense.

7 Q I'm sorry, that's nonresponsive. I'm
8 asking if you know the definition of the term ASSET
9 amounts.

10 A I do not.

11 Q Do you know how gross payroll and total
12 asset amounts are given weight in the formula?

13 A I do not.

14 Q Do you know who would?

15 A I would imagine someone in our accounting
16 area.

17 Q But you don't. And that's the extent of
18 your knowledge?

19 A That's correct.

20 Q Referring to CUB Exhibit 3.06G, Exhibit 1
21 you sponsored that submission, correct?

22 A This was done -- I did sponsor this

1 submission.

2 MS. FONNER: Just for clarification, if you're
3 talking about by sponsoring, not obviously for
4 purposes of this proceeding, but rather --

5 MR. KELTER: I'm not going to ask her to testify
6 to the numbers in there, I'm just going to ask a
7 couple simple questions about definitions.

8

9 BY MR. KELTER:

10 Q I just have two quick questions. Could you
11 please define the term automatic moved contracts?

12 A I don't know specifically, I believe what
13 it is relates to a customer, the same customer going
14 from one location within Nicor Gas to another
15 location within Nicor Gas.

16 Q Can we just make that subject to check,
17 then? And the same question about the definition of
18 Nicor Services cc sales?

19 A That would be the fifth column?

20 Q Yes.

21 A I believe what that is is the Nicor
22 Services call center sales, Nicor Services.

1 Q One final question. Well, maybe one. Are
2 you a Comfort Guard customer?

3 A Yes, I am.

4 MR. KELTER: I just have one other sort of
5 question for Nicor, I guess, it's almost a
6 housekeeping matter. But in terms of the data
7 requests that we made on the record today, will Nicor
8 stipulate to their admittance into the record once
9 they're answered?

10 MR. RIPPIE: I don't know yet.

11 JUDGE ARIDAS: I believe you made two on the
12 record.

13 MR. KELTER: I would like to -- I'm asking Nicor
14 to stipulate to the admittance of both of those to
15 the record. Can you try and answer those before the
16 end of the hearing?

17 MR. RIPPIE: I don't know that either. I need
18 to go back and look at, amongst other things, the
19 orders in connection with the potential admittance of
20 witnesses on this. It was my understanding -- well,
21 I don't want to argue this. I cannot agree to this
22 at this time. If by end of hearing you mean end of

1 the complete hearing mnot hearing today, is that
2 correct, Rob?

3 MR. KELTER: You know what, I just want a
4 reasonable time before the briefs are due.

5 MS. FONNER: We can have a discussion and an
6 answer for you by the conclusion of the hearing.

7 JUDGE ARIDAS: By next Friday an answer as to
8 whether or not it --

9 MS. FONNER: Whether we will be answering the
10 data requests.

11 MR. RIPPPIE: I suspect, in fact, a great deal of
12 the answer to this will be driven by the ruling that
13 will occur on Monday.

14 JUDGE ARIDAS: Fair enough.

15 MR. KELTER: Yeah, I don't have any problem with
16 that. Because in fact I'll agree now that if the
17 ruling is against us on Monday and this is thrown out
18 that we will withdraw the requests and you don't have
19 to rule on them.

20 JUDGE ARIDAS: Are you finished with your cross?

21 MR. KELTER: Yes.

22 JUDGE ARIDAS: Does anybody else have any cross?

1 Redirect? Ms. Fonner?

2 MS. FONNER: A moment, your Honor.

3 REDIRECT EXAMINATION

4 BY

5 MS. FONNER:

6 Q Very briefly. Ms. Suppes, does Nicor
7 service pay Nicor Gas for billing services?

8 A For billing services to be on the bill, is
9 that what you mean?

10 Q That's correct.

11 A Yes, they do.

12 Q Is that set forth anywhere such as a Nicor
13 Service tariff, to your knowledge?

14 A To my knowledge, I don't know exactly where
15 that's stipulated.

16 Q If I could hand the witness a term sheet
17 LCC No. 16 Gas Second Revised Sheet No. 52.5.

18 MR. KELTER: Could you do just a little bit
19 better job of identifying what that is for the
20 record?

21 MS. FONNER: I'm sorry, it's a tariff filed in
22 this proceeding that covers billing services.

1 JUDGE ARIDAS: Reread the number in.

2 MS. FONNER: I'm sorry, I tried to read that, I
3 may have not spoken directly into the microphone.

4 THE WITNESS: It is the LCC No. 16 Gas Second
5 Revised Sheet No. 52.5. At the bottom of the page it
6 refers to in the terms and conditions third party
7 billing service.

8 BY MS. FONNER:

9 Q Let me reask my question. To your
10 knowledge, is there anything that would cover Nicor
11 Gas' billing to Nicor Services for containing items
12 on the Nicor gas bill? Strike that.

13 Is there any company tariff that
14 specifies charges to be billed for line items that
15 appear on the Nicor gas bill for services that were
16 not provided directly by Nicor Gas?

17 A It indicates on here that the fee for
18 billing and payment processing will be 25 cents per
19 bill based on the terms and conditions.

20 Q With respect to CUB/CCSAO Exhibits 6 and 7,
21 regarding solicitations, I believe you indicated that
22 these seem to be of the size that would have been

1 included in as Nicor gas bill inserts; is that
2 correct?

3 A That is correct.

4 Q Does Nicor Gas provide bill inserts to any
5 other companies?

6 A Nicor Gas provides this service to third
7 parties that are interested in this service.

8 Q And when you say third parties, is that
9 limited to Nicor Gas Company affiliates?

10 A It is not limited to affiliates.

11 MS. FONNER: I have nothing further.

12 JUDGE ARIDAS: Recross?

13 MR. KELTER: Give us one second.

14 MS. DOSS: I have one quick question.

15 CROSS EXAMINATION

16 BY

17 MS. DOSS:

18 Q With respect to the 25 cents per bill, when
19 you were looking at the tariff, you were reading from
20 the tariff, correct?

21 A I was reading from the terms and
22 conditions, yes.

1 Q You had no independent knowledge of that,
2 correct?

3 A I believe I've been aware of it, I wasn't
4 thinking about it when I was asked the question.

5 Q So are you saying now that you do have
6 knowledge of that?

7 A I believe I am aware that that is the
8 billing charge for this service.

9 Q And do you know if it refers to Nicor
10 Services?

11 A I believe it does.

12 Q And you're stating that now that's your
13 testimony today?

14 A I believe it does, yes.

15 Q You believe it or are you saying that's
16 your testimony?

17 MS. FONNER: Object to the form of the question.

18 BY MS. DOSS:

19 Q Are you speculating or are you saying that
20 you support that as being your testimony or is it
21 speculation?

22 A I believe it does.

1 MS. DOSS: Your Honor, I would strike the
2 answer, I think she's speculating.

3 JUDGE ARIDAS: Rephrase your question. What are
4 you asking her exactly?

5 MS. DOSS: I just want to know when she read the
6 tariff, was that refreshing your memory or was it a
7 matter of --

8 JUDGE ARIDAS: As to what, Ms. Doss?

9 MS. DOSS: The 25 cents per bill for third party
10 billing.

11 MS. FONNER: I think we've already been through
12 that, asked and answered.

13 MS. DOSS: He asked me to rephrase it.

14 JUDGE ARIDAS: Are you asking her if that's what
15 the charge is?

16 MS. DOSS: No, I'm asking her does she have
17 independent knowledge of it. Because it seems like
18 she was speculating, she just saw it and read it and
19 that's what it seems like she did.

20 MS. FONNER: Ms. Suppes was clear that she knew
21 that third parties were billed and she later
22 indicated that having seen the tariff refreshed her

1 recollection, which is exactly the purpose for which
2 it was shown to her and offered.

3 MS. DOSS: Well, I think all she did was it's a
4 tariff, it's filed. I see no reason for the
5 testimony, it should be stricken.

6 JUDGE ARIDAS: All right, I'm going to overrule
7 your objection, Ms. Doss. Any more recross?

8 MR. KELTER: No, your Honor.

9 JUDGE BRODSKY: Any more direct?

10 MS. FONNER: No, your Honor.

11 JUDGE ARIDAS: Is there anything else to come
12 before us today? If not we're going to continue this
13 to 9:00 a.m. tomorrow morning.

14 (Whereupon the above-entitled
15 matter was continued to May 20th,
16 2005 at 9:00 o'clock a.m.)

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